

No. 2270

United States
Circuit Court of Appeals
For the Ninth Circuit.

PUGET SOUND MILLS & TIMBER COMPANY, a
Corporation,

Appellant,
vs.

GEORGE W. LOGGIE,

Appellee,
AND

GEORGE W. LOGGIE,

Appellant,
vs.

PUGET SOUND MILLS & TIMBER COMPANY, a
Corporation,

Appellee.

Transcript of Record.

Appeals from the United States District Court for the
Western District of Washington, Northern Division.

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*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

GEORGE W. LOGGIE,

Complainant and Appellant,
vs.

PUGET SOUND MILLS & TIMBER COM-
PANY, a Corporation,

Defendant and Appellant.

Names and Addresses of Counsel.

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Appellant,

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Appellant,

1309 Hoge Building, Seattle, Washington.

[1*]

*Page-number appearing at foot of page of original certified Record.

*In the Circuit Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS AND TIMBER COM-
PANY, a Corporation,

Defendant.

Bill of Complaint.

To the Honorable, the Judges of the Circuit Court
of the United States, in and for the Western
District of Washington:

George W. Loggie, a citizen of the United States
and of the State of Washington, residing at Bel-
lingham, Whatcom County, State of Washington,
brings this his Bill of Complaint against Puget
Sound Mill and Timber Company, a corporation,
organized under and pursuant to the laws of the
State of Washington, and having an office and place
for the transaction of its business in said city of
Bellingham, Whatcom County, State of Washing-
ton.

And thereupon your orator complains and says:

I.

That said defendant is, and at all times herein-
after mentioned was, a corporation duly organized
and existing under and by virtue of the laws of the
State of Washington, having one of its places of

business at the city of Bellingham, in said State of Washington, and being at said times and now a citizen of the said State of Washington.

II.

That heretofore and before the 27th day of November, 1906, the said complainant, George W. Loggie, then of said city of Bellingham, county and State aforesaid, was the original and first inventor of certain new and useful improvements in [2] receiving-trips and conveyors, for transmitting pieces of lumber from one machine to another during the process of manufacture, and also for properly depositing said pieces of lumber on said conveyors, the object of which invention is to reduce the amount of floor space required in which to conduct the several processes of manufacture of lumber, to diminish the number of men required to carry forward said work, thereby reducing the expense of manufacturing lumber siding, and correspondingly increasing the profits thereof, all of which is more fully and particularly described in the copy of the letters patent and specifications hereto attached annexed, marked Exhibit "A," and by this reference made a part hereof; that such new and useful improvements were not known or used by others in this country before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his intention or discovery thereof, or more than two years prior to his application for a patent therefor, and not in public use or on sale in this country for more than two years prior to his

4 *Puget Sound Mills & Timber Company*
application for a patent therefor.

III.

That your orator, so being the inventor of said improvements by having so made said discovery and originated said new and useful improvements within the two years immediately preceding the 16th day of June, 1906, did on said 16th day of June, 1906, make application for a patent therefor to the Commissioner of Patents in the United States Patent Office, in accordance with the then existing laws of the United States, and complied in all respects with the conditions and requirements and conditions of said laws. [3]

IV.

That thereafter on November 27, 1906, letters patent of the United States numbered 837,087, signed, sealed and executed in due form of law, and bearing date the day and year last mentioned, were issued to said George W. Loggie, whereby there was secured to him and to his heirs and assigns for the term of seventeen years from the 27th day of November, 1906, the full and exclusive right of making, using and vending the said improvements embodied in said patent throughout the United States and the Territories thereof, as appears by a copy of said letters patent and specifications thereof hereunto annexed, marked Exhibit "A" and by this reference made a part hereof, and as will more fully appear by a certified copy of said letters patent and specifications thereof, in court to be produced, leave for which your orator hereby asks.

V.

That at all times since complainant's discovery

and invention of his said improvement at the time of the patenting thereof and now complainant has been and is the owner of all rights in and of the whole of said invention and letters patent, and is entitled to be protected in the enjoyment of the same.

VI.

That defendant, as your orator is informed and believes, since a date within the period of two years prior to your orator's application for said letters patent and subsequent to your orator's said invention and discovery, well knowing all the facts hereinbefore set out, and against the will of your orator and in violation of his rights, learning of your orator's said invention and device, and seeking to take advantage [4] of your orator's knowledge, skill and discovery, copied or caused to be copied the experimental and working plan of your orator's and placed the same in use to its own advantage and benefit, at a lumber manufacturing plant owned by it and situated at said city of Bellingham, State of Washington, within said District, and constructed or caused to be constructed and used or caused to be used, receiving-trips and conveyors and machines for the manufacture of lumber, substantially as described in said letters patent, and each of which contains the invention described and claimed in said letters patent, and each of which is and was an infringement thereof; and defendant, well knowing all the facts hereinbefore set out, has continuously since about November, 1906, manufactured large quantities of lumber by a process, machines and

combinations of machines using, containing, and embracing said inventions, all without the license or consent of complainant and against his will, and in violation of his rights, and in infringement of said patent, and the rights secured thereby to complainant, with full knowledge of those rights, and to the injury of this complainant whereby he has been and still is being deprived of profits which he otherwise would have obtained, and whereby he has been and is being deprived of the exclusive enjoyment of the use, making and vending of said patented invention; that defendant is now infringing said patent and rights secured thereby and is continuing to use receiving-trips, conveyors and machines substantially as described in said patent and specifications thereof, and is continuing to manufacture lumber as aforesaid and by the use of said invention, to the infringement of said patent, and threatens to continue doing so, all in violation of the rights of complainant [5] as secured to him by said letters patent and without your orator's consent and against his will, all of which acts and doings are contrary to equity and good conscience, and tend to the manifest injury of your orator in the premises.

VII.

That defendant, so infringing said letters patent and using and operating machines and contrivances containing and embracing complainant's said invention and patent, has at all times during the period of such use, operation and manufacture effected a great saving in the cost of manufacture of lumber thereby, and has made great profits by such

use, operation and manufacture, the full and exact amount of which is at this time unknown to your orator.

VIII.

That but for the infringement herein complained of, and others of like character, your orator would still be in the undisturbed condition, use and enjoyment of the exclusive privilege secured by the said letters patent, and in receipt of the profits of the same.

Forasmuch as your orator can have no adequate relief, except in this court, and to the end, therefore, that the defendant may, if it can, show why your orator should not have the relief hereby prayed, and may make a full disclosure and discovery of all the matters aforesaid, and according to the best and utmost of its and its agents' and officers' knowledge, remembrance, information and belief, full, thorough, true, direct and perfect answer make to the matters hereinbefore stated and charged; but not under oath, an answer under oath being hereby expressly waived:

And that the defendant may be decreed to account for [6] and pay over the income or profits thus unlawfully derived from the violation of your orator's rights, and be restrained from any further violation of said rights:

Your orator prays that this Court may grant a writ of injunction, issuing out of and under seal of this Honorable Court, perpetually enjoining and restraining said defendant, its clerks, attorneys, agents, officers, servants or workmen from any fur-

8 *Puget Sound Mills & Timber Company*

ther construction, sale or use in any manner of said patent improvement, or any part thereof, in violation of your orator's rights aforesaid, and that the material now in possession or use of the said defendant may be destroyed or delivered up to your orator for that purpose.

And that your Honors, upon the rendering of the decree above prayed, may assess or cause to be assessed, in addition to the profits to be accounted for as aforesaid, the damages your orator has sustained by reason of such infringement, and that your Honor may increase the actual damages so assessed to a sum equal to three times the amount of such assessment under the circumstances of the wilful and unjust infringement by said defendant as herein set forth.

And your orator further prays that a provisional or preliminary injunction be issued restraining said defendant from any further infringement of said letters patent pending this cause, and for such other and further relief as the equity of the case may require, and to your Honors may seem meet.

May it please your Honors to grant unto your orator, not only a writ of injunction conformable to the prayer of this bill, but also a writ of subpoena of the United States of America, directed to the said Puget Sound Mills and Timber Company, a corporation, commanding it to appear and answer unto [7] this Bill of Complaint, and to abide and perform such order and decree in the premises as to the Court shall seem proper and required by the principles of

equity and good conscience.

GEORGE W. LOGGIE,
By FAIRCHILD & BRUCE,
Solicitors.

H. A. FAIRCHILD,
S. M. BRUCE,
J. W. KINDALL,

Solicitors for Complainant and *for* Counsel.

United States of America,
Southern District of California,—ss.

On this — day of December, 1907, before me, the undersigned notary public, personally appeared George W. Loggie, the complainant above named, who, being first duly sworn by me, deposes and says: That he is complainant named in the foregoing entitled cause of action, that he has read the foregoing bill of complaint, knows the contents thereof, and that the same are true of his own knowledge, except as to the matters stated therein on information and belief, and as to those matters he believes the same to be true.

GEORGE W. LOGGIE.

Subscribed and sworn to before me this 16th day of December, A. D. 1907.

[Seal] FRANK R. McREYNOLD,
Notary Public in and for the State of California,
Residing at Los Angeles County. [8]

**Exhibit "A" [to Bill of Complaint—Letters Patent
of G. W. Loggie, No. 837,087—Patented Novem-
ber 27, 1906].**

No. 837,087.

THE UNITED STATES OF AMERICA.
TO ALL TO WHOM THESE PRESENTS
SHALL COME:

Whereas George W. Loggie, of Bellingham, Washington, has presented to the Commissioner of Patents a Petition praying for the grant of Letters Patent for an alleged new and useful improvement in Receiving-Trips and Conveyors, a description of which invention is contained in the specification of which a copy is hereunto annexed and made part hereof and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made the said claimant is adjudged to be justly entitled to a Patent under the law.

Now, therefore, these Letters Patent are to grant unto the said George W. Loggie, his heirs, or assigns for the term of seventeen years from the twenty-seventh day of November one thousand nine hundred and six the exclusive right to make, use and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed at the City of Washington, this twenty-seventh day of November, in the year of our Lord one thousand

vs. George W. Loggie.

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nine hundred and six, and of the Independence of
the United States of Ameriea the one hundred and
thirty-first.

F. I. ALLEN,

Commissioner of Patents.

(Seal of Patent Office, U. S. A.) [9]

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No. 837,087.

PATENTED NOV. 27, 1906.

G. W. LOGGIE.
RECEIVING TRIP AND CONVEYER.
APPLICATION FILED JUNE 18, 1906.

APPLICATION FILED JUNE 16, 1906.

2 SHEETS—SHEET 1.

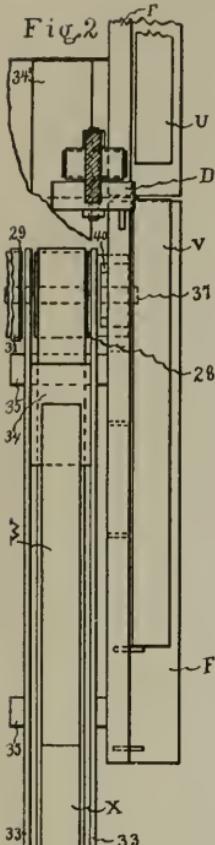
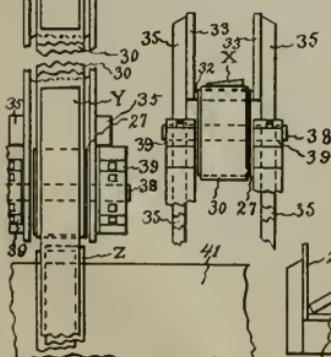
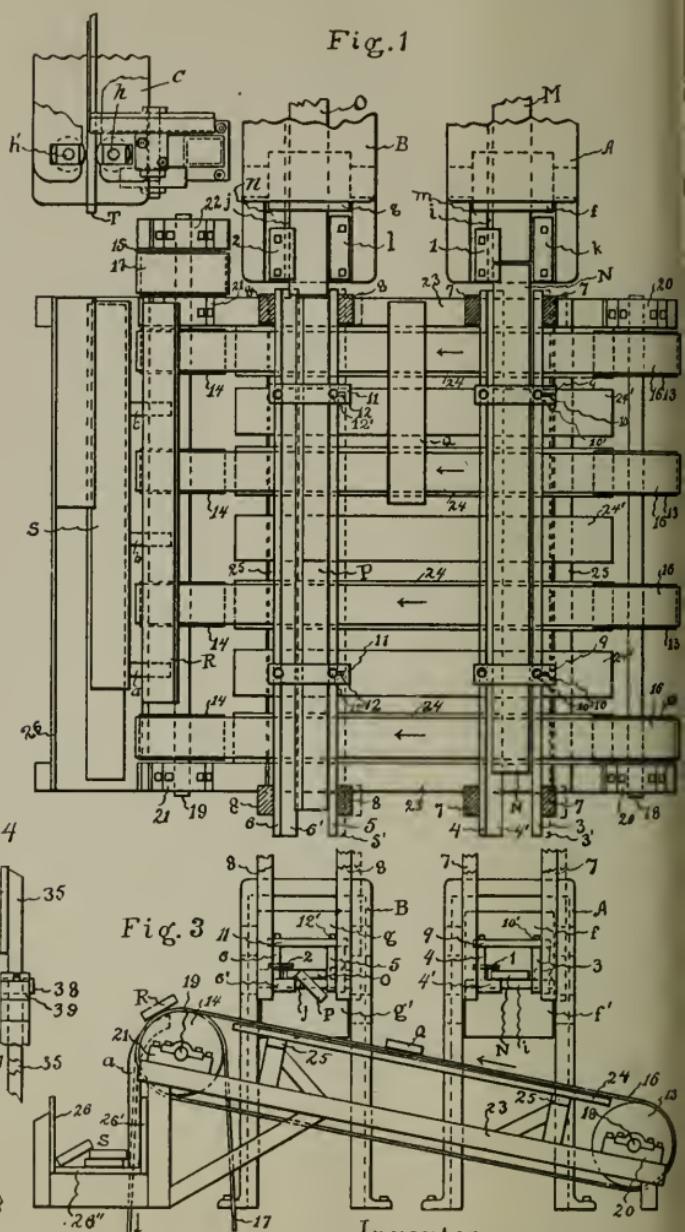


Fig. 4



Witnesses



Inventor

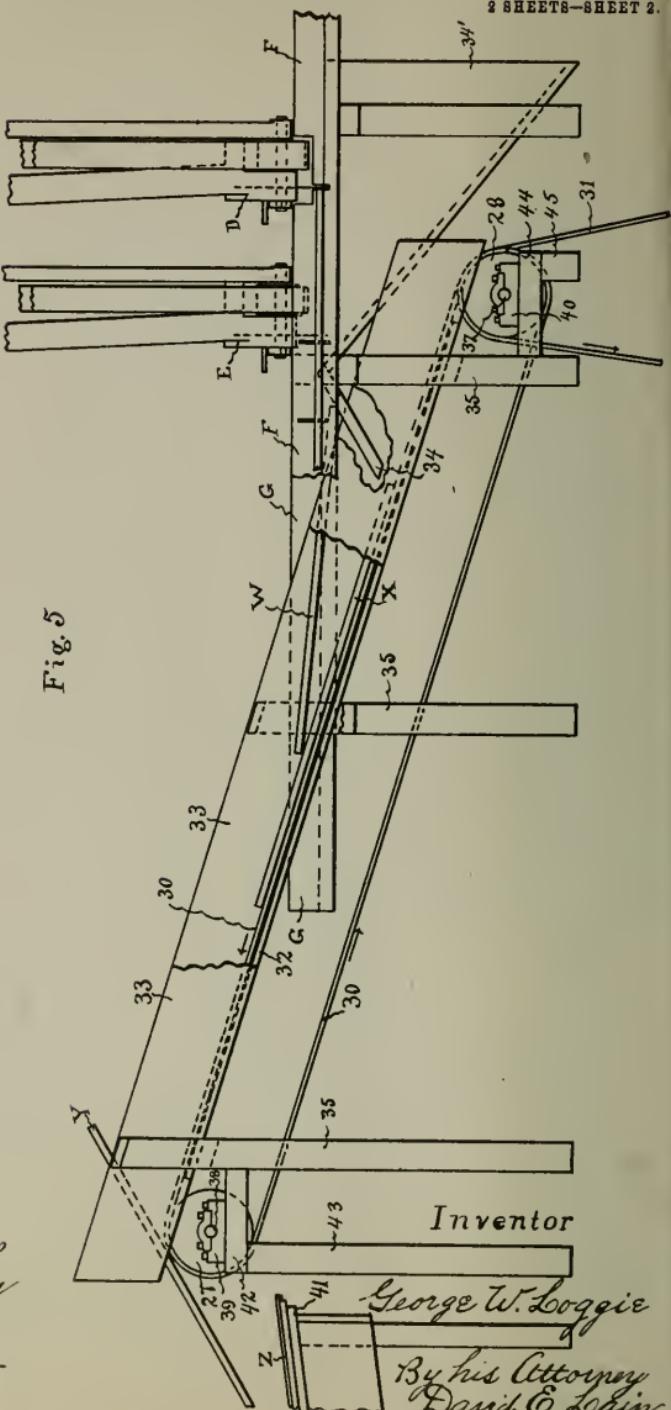
Inventor
George W. Loggie
By his Attorney
David E. Lain

G. W. LOGGIE.

RECEIVING TRIP AND CONVEYER.

APPLICATION FILED JUNE 16, 1906.

2 SHEETS—SHEET 2.



Witnesses

E. G. Grindley
J. C. Loggie

Inventor

George W. Loggie
By his Attorney
David C. Bain

UNITED STATES PATENT OFFICE.

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GEORGE W. LOGGIE, OF BELLINGHAM, WASHINGTON.

RECEIVING-TRIP AND CONVEYER.

No. 837,087.

Specification of Letters Patent.

Patented Nov. 27, 1906.

Application filed June 16, 1906. Serial No. 322,112.

To all whom it may concern:

Be it known that I, GEORGE W. LOGGIE, a citizen of the United States, and a resident of Bellingham, in the county of Whatcom and State of Washington, have invented certain new and useful Improvements in Receiving-Trips and Conveyers, of which the following is a specification.

My invention relates to an improvement in conveyers for transmitting pieces of lumber from one machine to another during the process of manufacture and also to an improved receiving-trip by which said pieces of lumber may be properly deposited on said conveyers.

The object of my invention is threefold: to reduce the amount of floor-space required in which to conduct the several processes of manufacture, to diminish the number of machines required for said processes, and to diminish the number of men required to carry forward said work.

The application of my invention to the manufacture of bevel-siding is illustrated in the accompanying two sheets of drawings, in which similar characters refer to similar parts throughout the several views.

Figures 1 and 2, taken together, represent in plan view an arrangement of machines embodying my invention. Fig. 3 is a side elevation of Fig. 1. Fig. 4 is an end elevation of Fig. 2, and Fig. 5 is a side elevation of Fig. 2.

In Figs. 1 and 3, A and B are portions of the rear ends of two wood-planers. Projecting longitudinally from the rear of each of these planers is a receiving-trip which receives each finished board as it comes from the planer and retains it until it has passed entirely beyond the planer bed-plate, when it is allowed to drop. Beneath these trips are a number of pulleys, which move a series of belts transversely behind the planers, forming a lateral conveyer. On this conveyer the boards fall from the trips and are transferred by it to a receptacle lying parallel with, to the rear, and to one side of said planers. By the side of said planers and in line with said receptacle is the resaw C, only the front part of which is shown. The boards are taken from said receptacle and fed by hand through this resaw, and the beveled pieces produced by it are then transferred laterally by hand to the trimmer-tables F and G, Figs. 2 and 5. (Trimmer-table G is not shown in Fig. 2.) The trimmer-tables are located by the side of the resaw

and parallel with the planers referred to. Between and above said trimmer-tables are hung the trimmers D and E, Figs. 2 and 5. (Trimmer E is not shown in Fig. 2.) Located between these trimmer-tables F and G is a longitudinal conveyer onto which the strips are thrown by hand after they are trimmed. This conveyer takes them to the grading-table 41, Figs. 2 and 5, all of which will now be more particularly described.

Planers A and B, as illustrated, are alike. In planer A *f* and *f'* are the upper and lower rear end rollers. *i* is the floor of the bed-plate. *m* is a fixed guide on the left-hand side, and *k* is a removable guide on the right-hand side, while *l* is a removable guide fastened on top of guide *m* and projecting a short distance over the floor *i*. Through the way limited by said floor *i*, side guides *m* and *k*, and top guides *l* the board M is driven by rollers *f* and *f'*. Registering with the bottom and sides of this way is a receiving-trip composed of side guides 3 and 4, ledge 4', spreaders 9 9, with slotted holes 10 10, and supporting-hangers 7 7 7 7. Hangers 7 7 supporting side guide 4 are rigidly attached to beams overhead, which are not shown. Hangers 7 7 supporting side guide 3 are also attached to beams overhead, which are not shown. The upper ends of these latter hangers, however, are hung on pins in said beams in line with each other and parallel to said guide, forming a hinged attachment which permits the lower end of these supports to swing when it is desired to change the space between guides 3 and 4. The board N is shown retained in this receiving-trip with one end still resting on the planer-floor *i*. It may be noted that while the board N is in the illustrated position it is retained by the side guides 3 and 4 and supported by the ledge 4' and planer-bed *i*; but since the ledge 4' only furnishes a support for one edge of the board the guide *l* is required to prevent the board from turning in the receiver as soon as it has passed from between the rollers.

The receiving-trip in the rear of planer B is in all respects similar to the one above described. In planer B the board O between the rear end rollers *g* and *g'* has pushed the board P off of the planer-bed *j*, and it is now entirely within the receiving-trip; but since the ledge 6' only supports the board P under one edge it falls from said trip. However, since the guides and ledge of the receiving-

trip are parallel to the planer-guides and bed the board falls from a position in a right line with that in which it moved through the planer.

5 The lateral conveyer beneath the trips and behind the planers above described is composed of the horizontal shafts 18 and 19, retained in bearings 20 20 and 21 21 22, respectively. Bearings 20 21 are attached to beams 23 23, and said beams are supported by suitable standards. Said bearings 20 20 and 21 21 are retained in such position that the shafts are parallel with the guides of said trip and shaft 19 preferably higher than shaft 18. On shaft 18 are the fixed pulleys 13 13 13 13, and on shaft 19 are the fixed pulleys 14 14 14 14, the pulleys on each shaft being regularly spaced and paired with those on the other shaft. Belts 16 16 16 16 are carried by the several pairs of pulleys. On one end of shaft 19 is fastened the driver-pulley 15, on which runs the driver-belt 17. This end of shaft 19 rests in bearing 22, which is suitably secured to a support. The belts 16 16 16 16 are supported between the pulleys by the under boards 24 24 24 24. These under boards are secured to the framework 25 25. The slats 24' 24' 24' are situated between the several belts and are also attached 30 to the framework 25 25. At the right-hand end of this lateral conveyer is the receptacle 26 26' 26''. This receptacle may be as shown or only a platform or merely a space at the delivery end of the conveyer, where a 35 number of boards may accumulate. The guards a b c are fastened to the side 26'' of said receptacle and prevent an accumulation of boards in said receptacle from chafing said belts. The conveyer-belts 16 16 16 16 40 are driven in the direction as indicated by the arrows. Boards Q and R are shown on this conveyer. They are assumed to have dropped from the said trips. A pile of boards S, occupying a place in the receptacle 45 26, are assumed to have been dropped there by said conveyer. It may be noted that said boards, whether on said conveyer or in said receptacle, are bound to register approximately with each other at the ends nearest 50 said planers.

The resaw C is in file line with planers A and B and opposite the end of receptacle 26. Only the front feed-rollers and a portion of the front end of this machine are shown. 55 Board T is shown between vertical feed-rollers h and h'. In passing through the resaw the finished boards are each cut into two pieces of beveled siding, as is well understood by those familiar with these processes. From 60 said resaw the beveled siding is transferred laterally by hand to trimming-tables F or G, Figs. 2 and 5. These trimmer-tables are located in file line and parallel with said planers and resaw. Trimmers D and E (partly illustrated in Figs. 2 and 5) are sup-

ported overhead and hang over and between said trimmer-tables in file line with said planers and resaw. These trimmers are hung one in advance of the other, so that they may not collide when in operation. Trimmer D serves table F, and trimmer E serves table G. Table F is partly removed in order to show articles behind it. Between trimmer-tables F and G and parallel with the same is a longitudinal conveyer. This device has a conveyer-belt 30 running in the direction indicated by the arrows on pulleys 28 and 27. Pulley 28 is attached to horizontal shaft 37, which is supported by bearings 40 40, (one of which is not shown.) These 80 bearings are attached to and supported on suitable framework 44 45. Pulley 27 is fixed to horizontal shaft 38, which is supported in bearings 29 29, attached to framework 42 43. Shaft 38 is parallel with and preferably in a 85 higher plane than shaft 37. One end of shaft 37 carries driver-pulley 29, which is driven by belt 31. Conveyer-belt 30 is supported by under board 32, to which is attached deep side guides 33 33, which are attached to standards 35 35 35, &c. One of said side guides is partly removed in Fig. 5, and a section of this conveyer is removed in Fig. 2 for lack of space. At the lower or receiving end of this longitudinal conveyer is 90 an inclined apron 34, the lower end of which is fastened between guides 33 33 and the upper end supported on the frame of the trimmer-tables. 34' is a dust-screen which prevents the trimmings from falling on the conveyer. A grading-table 41 (only partly shown) is located under the delivery end of the longitudinal conveyer. This table is slightly inclined downward from the side nearest said conveyer. After the strips of beveled siding are suitably trimmed by said trimmers while on said trimmer-tables they are taken from thence and thrown by hand on said longitudinal conveyer, care being taken, however, to so throw them that one end may strike on said apron 34 and the other end on said belt 30. These strips are frail and can be easily split by rough handling; but when they land in the conveyer, as described, the flexibility of the pieces causes them to bend downward, while the ends are supported between the said apron and said belt. They are thus saved from destructive shock. The strip W is assumed to have been thrown on the conveyer in this manner. The friction between the end of the strip on the belt and on strips of siding being carried by the belt is greater than the friction between the end of the strip and the inclined apron 34. Hence the strips are drawn down and forward until they lie entirely on the belt, as illustrated by the position of the strip X. The strip Y is shown as passing from the delivery end of the conveyer onto the grading-table 41, where a pile 100

of other strips Z have been assumed to have already arrived. It will be noted that the strips of siding are deposited on the grading-table with the ends nearest the conveyer lying in approximate register.

In practice I use more planers to finish the boards for delivery to the lateral conveyer than those herein illustrated and described. The other machines can also be increased in number or changed in kind as the needs of the several processes may require. The belts and other described appliances are well suited to the uses of a beveled-siding mill. However, for other uses to which my invention is also applicable chain or rope conveyers or some other variation of these appliances as described may be desirable. In many details also the apparatus as described can be changed to advantage to meet other conditions or even serve the described conditions better—as, for instance, the guides 1 and 2 on the planer bed-plates may be replaced by rollers. Therefore I do not desire to be understood as limiting myself to the specific forms and uses herein described.

With my improved apparatus the floor-space required on which to conduct the several processes necessary in finishing lumber is in the form of a rectangle measured as follows: in length by the length of the rough material when fed into the planers, plus the length of the planers, plus the length of the pieces as they lie on the lateral conveyer, and plus the length of the trimmed pieces as they lie on the grading-table, and in width by the distance required to properly set up and operate the file of planers, resaw-trimmers, and such other machinery as may be required.

As compared to the way the manufacture of bevel-siding is ordinarily carried on, my described process saves the services of one man to take the stuff from each planer. It also saves the use of one additional trimming-machine with attendant, for in practice I use two trimmers and one single and one double planer. The longitudinal conveyer also saves the use of one or more men. In this class of work pieces of material of widely-varying length are used. With my improved apparatus, as already referred to, these pieces are deposited by the conveyers with the ends nearest the next machine in order approximately registering, which is of great importance for the rapid and proper handling of the stuff.

Having thus particularly described my improvements, what I claim as new, and desire to secure by Letters Patent, is—

1. The combination of a battery of planers or similar wood-finishing machines; a receiving-trip extending longitudinally from the rear of each of said planers, said trips so constructed and placed that they will retain the stuff as it comes from the planers, in substantially the same plane as it passed through

the said planers, until it has passed entirely out of the same; and a lateral conveyer at the rear of said battery of planers and beneath said trips.

2. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each machine, said trips so constructed and placed that they may retain the stuff as it comes from the planers in substantially the same plane as it passes through said machines until it has passed entirely out of the same; a lateral conveyer at the rear of said battery of machines and beneath said trips; and a receptacle at the delivery end of said conveyer.

3. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyer located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyer; and a machine to complete the second stage in the process of manufacture, said machine located near one end of said receptacle, and preferably in file line with said battery of planers.

4. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyer located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyer; a machine, or machines, to complete the second stage in the process of manufacture, located near one end of said receptacle, and preferably in file line with said battery of planers; and a machine, or machines, to complete the third stage in the process of manufacture located by the side of the last-mentioned machines, and in file line with said battery of planers.

5. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyer located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyer; a machine, or machines to complete the second stage in the process of manufacture located near one end of said receptacle and in file line with said battery of planers; and a longitudinal conveyer the receiving end of which is located alongside of and below said last-mentioned machine, or between said last-mentioned machines, and the delivery end of which is located above a table.

6. The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed

of which planer has a channel composed of a bottom and side guides; the receiving-trip comprising a top guide attached to one of said planer-bed, side guides and extending over said channel-bottom; two deep, side guides registering with the side guides on said planer-bed; and a narrow, bottom guide or ledge attached to one of said deep side guides and registering with said channel-bottom.

7. The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed, side guides and extending over said channel-bottom; two deep, side guides registering with the side guides on said planer-bed; a narrow, bottom guide or ledge attached to one of said side guides and registering with said channel-bottom; slotted spreaders attached to said deep, side guides; and supporting-hangers also attached to said deep, side guides.

8. The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed, side guides and extending over said channel-bottom; two deep, side guides registering with the side guides on said planer-bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel-bottom; slotted spreaders attached to said deep side guides; and supporting-hangers also attached to said deep side guides, one set of said hangers is attached overhead in a hinge-joint parallel with said guides and the other set is rigidly attached overhead.

Signed at Bellingham, in the county of Whatcom and State of Washington, this 31st day of May, A. D. 1906.

GEORGE W. LOGGIE.

Witnesses:

E. G. CORDINGLEY,
J. A. LOGGIE.

[Endorsed]: Plaintiff's Exhibit "A."

[Endorsed]: Bill of Complaint. Filed in the U. S. Circuit Court, Western Dist. of Washington. Jan. 18, 1908. A. Reeves Ayres, Clerk. R. M. Hopkins, Dep. [14]

In the Circuit Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Answer.

This defendant now and at all times hereinafter saving and reserving unto itself all manner of benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, imperfections and insufficiencies of the bill of complaint, for answer thereunto, or so much thereof as this defendant is advised is material or necessary to make answer unto, says:

I.

Answering the first paragraph of said bill of complaint, this defendant admits the same.

II.

Answering the second paragraph of said bill of complaint, this defendant denies that on or before the 27th day of November, 1906, or at any other time,

the said complainant, George W. Loggie, was the original or first inventor of the said alleged improvements in receiving-trips and conveyors for transmitting pieces of lumber from one machine to another during the process of manufacture and for properly depositing said pieces of lumber on said conveyors; denies that he was the original or first inventor of the improvements alleged in said paragraph two; denies that said alleged improvements in said paragraph two stated had not been known or used in this country and elsewhere prior to the date of the alleged invention [15] or discovery by the complainant; denies that said alleged improvements were not patented or described in any printed publication in this or any foreign country before complainant's alleged invention or discovery thereof; denies that said alleged improvements were not in public use nor on sale in this country for more than two years prior to said complainant's application for letters patent therefor.

As to whether said alleged improvements are fully and particularly described in the copy of the letters patent and the specifications thereto annexed, attached to the bill of complaint, this defendant is not informed, save by said bill of complaint, and therefore denies the same and leaves the complainant to make proof thereof.

III.

Answering the third paragraph of said bill of complaint, this defendant denies that the complainant was the inventor of said alleged improvements; denies that he made discovery of or originated the said

improvements within two years immediately preceding the 16th day of June, or at all.

As to whether said complainant made application for a patent for said alleged improvements to the Commissioner of Patents, in accordance with the then existing laws of the United States, and complied in all respects with the requirements and conditions of said laws, this defendant is not informed, save by the said bill of complaint and therefore denies the same, and leaves the complainant to make proof thereof.

IV.

Answering the fourth paragraph of said bill of complaint, this defendant denies that on the 27th day of November, 1906, or at any other time, letters patent of the United States [16] numbered 837,-087 were signed, sealed and executed in due form of law and issued to said George W. Loggie, whereby there was secured to him and to his heirs and assigns for seventeen years from the 27th day of November, 1906, the full and exclusive right of making, using and vending the said improvements embodied in said patent throughout the United States and the territories thereof, as alleged in said bill of complaint; and as to all of these matters and all other matters alleged in this bill of complaint, this defendant denies the same and leaves the complainant to make such proof as he may be advised is proper and material.

V.

Answering the fifth paragraph of the complaint, this defendant denies that the complainant has been or is the owner of any rights in or to the said alleged

invention and said letters patent; denies that he is to be protected in the enjoyment of the same; denies the existence of the legal effect of said letters patent, and denies the right of the complainant to maintain this suit by virtue of said letters patent and by virtue of any alleged discovery or invention prior to the application for said letters patent; denies the alleged invention set forth in said letters patent and each and every part thereof; and denies that any rights or privileges were granted or secured, or intended to be granted or secured, thereby to the complainant, and leaves the complainant to make proof thereof.

VI.

Answering the sixth paragraph of said bill of complaint, this defendant denies that within two years prior to complainant's application for letters patent, or at any other [17] time, either before or subsequent to the date of complainant's alleged invention and discovery, this defendant copied or caused to be copied, the experimental or working plans of the complainant; denies that defendant placed the same in use in its lumber manufacturing plant at Bellingham, Washington, or at any other place; denies that it constructed or caused to be constructed, or used or caused to be used receiving-trips or conveyors or machines for the manufacture of lumber substantially as described in said letters patent; denies that it ever used or caused to be used any improvements or inventions as alleged or claimed in said paragraph, or in said letters patent, or at all; denies that the use of any machinery, receiving-trips or conveyors or machines used by this defendant in the manufac-

ture of lumber at Bellingham, Washington, or elsewhere, is or was an infringement of any rights of the complainant; denies that it has continuously or at all since November, 1906, manufactured lumber by any process of machines or combination of machines using, containing or embracing any inventions of complainant, as alleged in said bill of complaint; denies that defendant has violated any of the rights of the complainant, and denies any infringement by the defendant of said alleged letters patent or of any rights secured thereby to the complainant; denies that complainant has been or is being deprived of any profits which he would otherwise have obtained by any acts of this defendant; denies that the complainant has been or is being deprived of the exclusive enjoyment of the use, making or vending said alleged patented invention; denies that the defendant is now or ever has infringed the said alleged patent or any rights secured thereby to the complainant; denies that defendant is continuing to use [18] receiving-trips, conveyors and machines substantially as described in said patent and the specifications thereof; denies that the defendant is continuing to manufacture lumber by the use of said alleged invention of the complainant to the infringement of said patent or at all; denies that he is violating or has violated any of the rights of the complainant as secured to him by said alleged letters patent; denies that any acts and doings of the defendant are contrary to equity and good conscience, and denies that any acts or doings of the defendant tend to the injury of complainant, and leaves the complainant to his proofs.

VII.

Answering the seventh paragraph of said bill of complaint, this defendant denies that it has infringed said letters patent in any way at all; denies that it has used or operated machines or contrivances containing or embracing complainant's alleged invention and patent; denies that in the use and operation of any machines or contrivances used in its plant at Bellingham for the manufacture of lumber it has effected any saving in the cost of the manufacture of lumber; denies that it has made large profits by the use or operation of any machines or contrivances that in any manner infringe upon the rights or privileges secured to the complainant by his alleged patent.

VIII.

Answering the eighth paragraph of said bill of complaint this defendant denies the same and each and every part thereof.

IX.

This defendant further answering said bill of complaint [19] avers, on information and belief, that the said complainant is not the true, original, first and sole inventor of the alleged invention shown, described and claimed in said letters patent numbered 837,087, but that the same and all material parts thereof were, long prior to the date of the alleged invention of said complainant, patented to other persons, and described in the following mentioned letters patent and printed publications:

LETTERS PATENT OF THE UNITED STATES.

No. 685,467—P. Boyd, October 28, 1901.

No. 299,832—W. H. Moore, June 3, 1884.

No. 721,006—T. J. Bray, Jr., February 17, 1903.
and others to this defendant at present unknown, but
which it prays leave of Court to insert by amend-
ments when ascertained.

PRINTED PUBLICATIONS.

The printed copies of the aforesaid letters patent of the United States published by the Patent Office of the United States in the city of Washington, District of Columbia, on the dates corresponding with the dates of the several letters patent of the United States respectively.

X.

This defendant, further answering, says: That letters patent No. 837,087 are void and of no force and effect, because the alleged improvements attempted to be patented thereby did not, at the date of said letters patent or at the date of said alleged invention thereof by said complainant, involve or require invention, and in view of the state of the art as it existed at that time did not require the exercise of the inventive faculty to devise and produce the alleged invention shown, described and claimed in said letters patent; that said alleged invention produced no new and useful result not already [20] known to others skilled in the art to which said alleged invention relates.

XI.

This defendant, further answering, says: That the

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invention claimed in said letters patent was not an invention and is not an invention, but merely the product of mechanical skill.

XII.

This defendant, further answering says: That the patent is invalid because the matter claimed or substantial parts thereof were not novel at the time of application, but were known to the public and were in general use long prior to the alleged discovery and invention by the complainant.

XIII.

That said letters patent are invalid and void for the reason that the description of the invention is not in such full, clear, concise, and exact terms as to enable one skilled in the art to make and use the invention; and that said patent is invalid because the claims are not distinct and are not based on the specifications relating to said claims, and the application for patent does not describe the object of complainant's alleged invention as actually patented.

XIV.

Further answering the bill of complaint, defendant avers that the machines, contrivances, conveyors and trips used by it in the manufacture of lumber at its plant at Bellingham, Washington, were constructed, utilized and in actual operation by the defendant long prior to the alleged invention of the complainant and more than two years prior to the date of the filing of his application, and that the same contrivances, [21] trips, and machines, and assembling of machines had been in operation and

use continuously in the State of Washington and elsewhere for many years prior to the date of complainant's application for letters patent, and had been in constant use and operation for more than twenty years prior to the application of complainant for letters patent, and that the machines, contrivances, conveyors and trips used by the defendant are entirely and radically distinct and different from the machines and alleged inventions of the complainant.

Now, therefore, this defendant, having fully answered all and singular those portions of the bill of complaint which it is advised it is material and necessary for it to answer, denies all manner of things specifically answered unto and prays the same benefit of the several matters and things hereinbefore alleged and set forth as if by reason thereof they had demurred or pleaded to said bill; all of which foregoing statements and defenses this defendant is ready and willing to aver and maintain and prove as this Honorable Court shall direct; and without admitting as true any of the matters charged and alleged in said bill of complaint not herein well and sufficiently answered, confessed, traversed and avoided or denied, and submitting to this Honorable Court that the complainant has no right to any further answer to said bill of complaint than is hereinbefore contained, and no right to any accounting, discovery, injunction or other relief, prayed for in said bill of complaint, this defendant prays to be dismissed

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hence with its reasonable costs in this behalf most wrongfully sustained.

KERR & McCORD,
Solicitors for Defendant. [22]

State of Washington,
County of King,—ss.

J. A. Kerr, being first duly sworn, upon oath deposes and says, that he is a member of the firm of Kerr & McCord, solicitors for the defendant in the above-entitled action; that the officers of this defendant are absent from King County, and that he makes this verification for and on behalf of said defendant; that he has read the foregoing answer, knows the contents thereof, and believes the same to be true.

J. A. KERR.

Subscribed and sworn to before me this the 24th day of May, A. D. 1909.

[Seal] W. D. COVINGTON,
Deputy Clerk U. S. Circuit Court, Western District
of Washington.

[Endorsed]: Answer. Filed U. S. Circuit Court,
Western District of Washington. May 24, 1909.
A. Reeves Ayres, Clerk. W. D. Covington, Deputy.
[23]

*In the Circuit Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS AND TIMBER COM-
PANY, a Corporation,

Defendant.

Replication.

This repliant, saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answer of the said defendant, for replication thereunto saith, that he doth and will aver, maintain, and prove his said bill to be true, certain and sufficient in the law to be answered unto by the said defendant, and that the answer of said defendant, is very uncertain, evasive, and insufficient in law, to be replied unto by this repliant; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied to, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain, and prove as this Honorable Court

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shall direct, and humbly prays as in and by his said
bill he hath already prayed.

S. M. BRUCE,
J. W. KINDALL,
Solicitors and Counsel for Repliant.

[Endorsed]: Replication. Filed May 20, 1909.
A. Reeves Ayres, Clerk. By E. D. Kenyon, Deputy.
[24]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Plaintiff,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,
Defendant.

**Stipulation [Extending Time for Settlement of Bill
of Exceptions or Statement of Case].**

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that the time within which the Bill of Exceptions or Statement of case may be settled shall be extended up to and including the 21st day of April, 1913.

DORR & HADLEY and

J. W. KINDALL,

Attorneys for Plaintiff.

KERR & McCORD,

Attorneys for Defendant.

[Endorsed]: Stipulation. Filed in the U. S. District Court, Western Dist. of Washington. Apr. 16, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy. [25]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Plaintiff,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Order [Extending Time for Settlement of Bill of Exceptions].

It appearing to the Court that a stipulation has been entered into by the parties to the above-entitled cause extending the time to settle the Bill of Exceptions or Statement of Case up to and including April 21st, 1913, it is now by the Court,

ORDERED, that the time within which the Statement of Case or Bill of Exceptions may be settled in the above-entitled cause be and the same is hereby

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extended up to and including the 21st day of April,
1913.

Done in open court this 16th day of April, 1913.
EDWARD E. CUSHMAN,
Judge.

O. K.

KERR & McCORD,
Attys. for Deft.
DORR & HADLEY and
J. W. KINDALL.

[Endorsed]: Order. Filed in the U. S. District Court, Western Dist. of Washington. Apr. 16, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy. [26]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.
(Circuit Court.)
GEORGE W. LOGGIE,
Plaintiff,
vs.
PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,
Defendant.

Order Settling Bill of Exceptions.
This cause having been brought on regularly before this court on the 16th day of April, 1913, upon the joint application of the plaintiff and the defend-

ant above named for the settling and certifying of their Bill of Exceptions or Statement of Case lately filed herein, and the time for such settling and certifying of said Bill of Exceptions or Statement of Case having been duly extended by order of the Court and by stipulation of the parties until and including this day, and the parties having agreed together in respect to all of the material facts which should be contained in the said Bill of Exceptions or Statement of Case,—

NOW, THEREFORE, on the joint motion of the parties hereto, it is ordered that the said Bill of Exceptions or Statement of Case, in this cause as the same now stands, be and it is hereby settled as a true Bill of Exceptions or Statement of Case in this cause, and that the same as so settled be now and here certified accordingly by the undersigned Judge of this Court, and that the said Bill of Exceptions or Statement of Case when so certified be filed with the clerk. [27]

It is further ordered that the originals of the exhibits referred to herein may be forwarded to the said Circuit Court of Appeals.

Done in open court this 16th day of April, 1913.

EDWARD E. CUSHMAN,

Judge.

O. K.

DORR & HADLEY,

J. W. KINDALL.

O. K.

KERR & McCORD.

[Endorsed]: Order Settling Bill of Exceptions.
Filed in the U. S. District Court, Western Dist. of Washington. Apr. 16, 1913. Frank L. Crosby,
Clerk. By E. M. L., Deputy. [28]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Stipulation [Concerning Bill of Exceptions, De-
murrer, Exceptions to Interlocutory Decree, and
Waiving Printing of Certain Exhibits].**

It is hereby stipulated and agreed by and between the parties hereto, by their respective attorneys, that the hereunto attached Bill of Exceptions or Statement of the Case contains all of the facts considered by the said parties to be material to the matters and things involved in the respective appeals of the above-entitled cause to the Circuit Court of Appeals, and that the same may be settled, by an order of the Court, as such.

It is further stipulated and agreed that a demurrer was interposed by the defendant to the complaint of the plaintiff herein, and that the same was over-

ruled, and that the ground of said demurrer was that the said complaint did not state facts sufficient to constitute a cause of action.

It is further stipulated and agreed that at the time the interlocutory decree was made and entered herein that the respective parties to this action duly excepted thereto, and that their respective exceptions are more fully embodied in their respective assignments of error on file and a part of this record on appeal.

It is further stipulated and agreed that the original of the exhibits on file in the above-entitled cause and Court [29] may be forwarded to the Circuit Court of Appeals, and that in printing the record on appeal that the copies of letters patent referred to in this Bill of Exceptions, which are herewith furnished to the clerk of the above-entitled court, may be used in the printed record, and that the reprinting of the same is hereby waived.

DORR & HADLEY,
J. W. KINDALL,
Attorneys for Plaintiff.
KERR & McCORD,
Attorneys for Defendant. [30]

[Bill of Exceptions or Statement of Case.]

United States District Court, Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

PROPOSED BILL OF EXCEPTIONS.

BE IT REMEMBERED, That on the 11th day of September, 1911, the above-entitled cause came on for trial before the above-named court, the Honorable Judge C. H. Hanford then presiding, the plaintiff appearing by his attorneys, Messrs. Dorr & Hadley and J. W. Kindall, Esq., and the defendant appearing by its attorneys, Messrs. Kerr & McCord, and depositions, duly and regularly taken upon stipulation by and between the parties hereto, prior to the aforementioned hearing, were introduced as evidence, and showing the testimony to be as follows, to wit:

[Deposition of George W. Loggie, the Complainant.]

The deposition of the plaintiff in this case was taken into consideration, and showed his testimony to be that he claimed to be the inventor and patentee of that certain patent shown in the Exhibit

(Deposition of George W. Loggie.)

"A" hereinafter contained, which said Exhibit "A" was a certified copy of letters patent issued to the plaintiff and numbered 837,087; that he had put the same into use the latter part of the year 1904, and that [31] on or about January 23d, 1907, he gave the defendant notice that the defendant was infringing upon his rights under this patent.

Exhibit "C," hereinafter contained, was then identified and introduced, the same purporting to be the photograph of a portion of complainant's planing-mill.

Thereafter, the plaintiff, on his cross-examination as to the different parts of his patent, and in answer to the question, "I say in your patent that is the way it is, is it not?" stated, "The patent connects it with the trip—the trip is on the rear of the planer connected with the chute—the box that this runs in." And in further explanation as to the operation of his patent, testified as follows, to wit:

"Q. The piece of lumber comes through the planer, enters into this box arrangement, which has a solid bottom, and that runs for a distance of two or three feet from the machine, and the piece that passes through, the next piece that comes from the planer strikes it and carries it on—forces it ahead, doesn't it?

A. If I understand your question, this box is for the purpose of conveying the piece after it leaves the planer in the same position that it goes from the planer; this trip is for the purpose of carrying the piece far enough from the end of the planer so that

(Deposition of George W. Loggie.)

it will drop where required on the transfer belts.

Q. What I am trying to get at is this: You have a solid bottom up to the point where you want the drop to occur, so that it will fall right down and always fall evenly and register exactly.

A. Not necessarily—the bottom don't have to necessarily be solid up to there.

Q. What regulates the drop of the lumber—of the board going through?

A. It is the top piece holding the board; if I had something I could perhaps explain it here; it is the top piece holding the board in this manner; there is a shelf runs along herein; it comes out of the planer and enters. We will assume that this is the box and the side here and another side here, it comes along here; now, I will tell you what stops it from tripping—there is the trip, don't you see—we will say that this piece is passing through here and there is only an inch or so, when that comes out it will fall down, there is nothing to hold it." [32]

Afterward in this cross-examination, he testified as follows:

"Q. I say the trip is the top.

A. Yes, that is what guides the board and puts it in position, that guides it, and the two sides guides it so that it holds in position and whenever it comes past there there is nothing to hold that edge up, the weight being away from the ledge here, it has to fall, and we want it to fall both ends together, so that when it falls on the conveyor chains it will go parallel over to the band resaw."

(Deposition of George W. Loggie.)

The witness was asked if he had ever examined a certain patent numbered 299,832, known as the "Moore Patent," which is mentioned hereinafter, and a copy of which is hereinafter contained, and he stated that he did not know what this patent was, and that he did not recollect ever having examined patent No. 685,465, known in the trial of this case as the "Boyd Patent."

The witness again described his "trip," as follows:

"Q. Now, your particular trip consists just of a flat plank, does it not, Mr. Loggie—just a plank above.

A. A piece of wood or a piece of iron.

Q. A piece of wood or a piece of iron, but it lies practically horizontal with the bottom of this conveyor, does it not?

A. Yes, sir; I have nothing from the line of the bed of the planer to permit the piece you plane to pass under it."

Upon being questioned as to what was claimed as new about the patent, the witness testified as follows, to wit:

"Q. You don't claim anything new on the use of the conveyor for the purpose of carrying off lumber, do you?

A. I do in that particular place.

Q. I say because of the assembling of the machines, but so far as the conveyor itself is concerned that you don't consider new, do you?

A. In that application I do.

(Deposition of George W. Loggie.)

Q. I am not asking you for the application. I say so far as the use of the conveyor is concerned.

A. The conveyors are not new. [33]

Q. They have always been used?

A. Various kinds of conveyors have been used.

Q. Nothing new in your planer resaw trimmers; they are in common use in all mills, aren't they?

A. Yes, sir; planers are in use and resaws are in use in all mills—that is well regulated mills.

A. Conveyors are used in a general way for carrying sawdust and planer shavings.

Q. Yes, lumber and everything else.

A. Lumber, slabs and so on, but conveyors behind a planer is something I never seen until I put my own in."

As to what the plaintiff was claiming under his patent, he testified, as follows, to wit:

"A. No, sir, never until I put it in myself.

Q. Now, Mr. Loggie, you are claiming under a patent simply for an assembling of two planers, and trimmers, a resaw and a conveyor plus your tripper—plus your trip and that conveyor; that is what this amounts to—all of them old except the trip—all of them have been in common use for a number of years.

A. All new to me.

Q. I say they have all been in use except this particular assembling? A. Yes, sir.

Q. Everything has been in use except the trip or that conveyor where it goes into this box—what do you call it—conveyor—this chute where the lumber

(Deposition of George W. Loggie.)

comes out of the planer and goes in onto the trip—what do you call that device?

Q. You won't answer my question?

A. I don't understand it.

Q. Yes, you do, I think. I say, aside from this particular combination, this particular assembling of these different machines with this conveyor, this lateral conveyor, all of those with the exception of the chute and the trip have been in common use for years before you applied for your patent, haven't they? Conveyors have been in use and planers have been in use. A. Yes, sir. [34]

Q. Resaws have been in use? A. Yes, sir.

Q. Trimmers have been in use? A. Yes, sir.

Q. And the only thing new about it is the particular place in the mill where you place it?

A. The combination.

Q. It is the combination? A. Yes, sir.

Q. And the trip and chute you adopt as new?

A. I do."

And as to whether or not the different parts of this assemblage of machines would perform their different functions independently of one another, the witness testified:

"Q. Now, that trip and that chute performs the same functions and could be used independently of any combination with the lateral conveyors carrying it over to the resaw, couldn't it?

A. I wouldn't consider it practical.

Q. I say it would work out just the same way,

(Deposition of George W. Loggie.)

wouldn't it? A. No.

Q. It would register, would it not?

A. It would register.

Q. It would drop the boards in regular lengths and regular places?

A. Yes, sir, and in a few minutes it would fill up until it struck that conveyor, but it appears the same way.

Q. And performs identically the same functions that it does in the combination so far as that trip and chute is concerned?

A. It would drop them on the bare floor the same as it would on the conveyor.

Q. And performs the same function whether there is any other machine to take it away or not?

A. It would carry it out and drop it just the same if there was no object in having that done. [35]

Q. As a matter of fact, the use of this trip and the use of the lateral conveyors is simply an aggregation of two useful contrivances, isn't it?"

On being questioned again as to what the "trip" is, referring to Exhibit "A," in answer to the question, "for instance, what is '2,'" the witness stated: "'2' in 'figure 1' is the portion of the trip, the hold down portion of the trip," and stated that the function that it performed was the holding in position of the piece of lumber until it would fall, and in connection with the definition of the "trip," testified further:

"A. Just as soon as it went through the trip. What is this '7,' what is this? The board would fall as soon as it went through the trip.

(Deposition of George W. Loggie.)

Q. Which do you refer to as the trip there—‘2’?

A. As part of it; yes.

Q. Would it fall as it got just beyond ‘2’?

A. Just beyond ‘2’—beyond the trip.”

As to the length of time that the plaintiff had been using that which he claims to have patented, he testified as follows, to wit:

“Q. Never had used a chute and trip for holding the lumber as it came out of the planer in a horizontal position until after the arrival of this planer from Beloit in June, 1904?

A. No, I don’t think so—not that I remember of.

Q. You know whether you did or not.

A. I don’t remember that, no, I don’t; the present trips we perfected is the trips that are there now and was put in after this planer was put in.

.
A. I think there may have been something done on the conveyors, but I am not sure as to the trip and the completion of that; there may have been something done on those conveyors, but it was not perfected—that thing was not perfected until after that thing came in.

Q. I understand that, but so far as this chute is concerned and this trip is concerned you won’t swear— [36]

A. I can’t remember the exact date.

Q. You won’t swear that you didn’t have that thing perfect—so that you knew it would work actually in your mill prior to the arrival of that Beloit machine?

44 *Puget Sound Mills & Timber Company*

(Deposition of George W. Loggie.)

A. I do swear that we did not have it perfected until after that time.

Q. Yes, but you will not swear that you didn't have an actual device in your mill involving the same principle that did work prior to that?

A. No, I don't remember that—I won't swear to that, because I don't remember exactly. I don't remember those dates." [37]

On cross-examination, in reference to the length of time he had been using that which he claims to have patented, complainant, George W. Loggie, testified that he was working on the scheme involved in his patent quite a while before putting it in use in his mill; that he experimented for awhile. "The present trips, we put on some of the parts first and they did not work and we was quite awhile perfecting the machine. We began building our mill in February, 1903; we was working on this conveyor that you refer to some time in June, July and August, I think, perfecting the different conveyors and different arrangements—quite awhile perfecting them. * * * In the summer of 1904 we began working on it. * * * The principal one having charge of this work was Peter Westman."

Witness then refreshed his memory as to time of installing his patented device by reference to a bill for a planer purchased from Beloit, Wisconsin.

Complainant further testified on cross-examination, in speaking of the top guide of the receiving-trip:

"By placing it at different points we can place

(Deposition of George W. Loggie.)

it on the bed of the planer, or any distance wherever we desire the board to fall, to make all the ends register.”

And, further, “the boards vary in length from 3 to 16 feet.”

And in reference to the principle of the receiving-trip, he testified that the whole principle of his invention was simply an application of the laws of gravitation, coupled with the mechanical arrangement.

Being cross-examined as to the relation of the separate elements of his combination, he testified that they were separate so far as any mechanical connection was concerned, but that from a point of utility he would not consider one thing [38] good without the other, and that one would not be of any service to him without the other, and that planers used in his combination are for a special purpose.

On redirect examination, on being referred to complainant’s identified Exhibit “A,” being a certified copy of his letters patent, complainant testified:

“‘2’ in Fig. 1 is the hold-down part of the trip, and the function it performs is to hold the piece of lumber in position until it goes completely through it, then the piece falls.”

Complainant then refers to “‘6’ as part of the bottom (of the receiving-trip) and to “‘6’ as the side of the “chute” at the rear end of the planer.

As to the length of time complainant had been using that which he claims to have patented, he further testified on cross-examination as follows:

(Deposition of George W. Loggie.)

"This device was in use in my mill something over a year, possibly between one and two years, prior to my making application for patent. * * * I do not remember the exact date that I first began the use of the device, but we perfected the arrangement after the installation of a planer shipped to us about May 11th or 12th, 1904, from Beloit, Wisconsin. This machine was installed and we shut down on the 4th of July. I don't remember now the exact date of the installation of that machine, but I know we were working on the 5th of July on a portion of these arrangements. * * * "

"Q. I understand that, but I say the trips you used in connection with that machine at that time you had not perfected so that they would work before that?

A. No, they were not perfected until after that planer went in there. [39]

Q. You never had used them before that time?

A. I don't remember; I would not be sure as to that.

Q. Do you mean to tell me you hadn't used this chute and the trip behind the planer until the arrival of this planer? A. Not the present trip; no.

Q. I understand the present trip, but I mean something similar to that.

A. No, I don't believe we did.

Q. You mean to say you didn't have a chute there for dropping this lumber until the arrival of this machine? A. I do mean to say so.

Q. You never had a trip in your mill prior to that

(Deposition of George W. Loggie.)

time? A. No.

Q. Never had used this trip in any mill at all or a similar trip? A. No."

In reference to this same matter complainant further testified on cross-examination that he had never made a model of his patent device, but figured on it in his mind and sketching on paper in his office before he ever spoke to anybody about it, or had it in any mill until after the arrival of the planer from Beloit, and then testified as follows:

"Q. I want you to tell just what you did. How did you find out it worked? A. By construction.

Q. You found that out before you placed your machines in position then, didn't you?

A. No, sir, I didn't; I found out after the machines were put in position, by actual practice and trial."

And complainant testified further, as follows, to wit:

"Q. The only thing that you mean in saying this is that you didn't have this combination until after the arrival of this machine—the combination patented.

A. I say we did not have the trip perfected until after that planer was put in."

On cross-examination the plaintiff explained the use of the down-holding devices on moulding machines and planers as follows:

"Moulding machines and some planers have down-holding pieces to hold the piece down to the head of the planer, where it is no object other than holding it solid to stop it from jumping and making rough

(Deposition of George W. Loggie.)

surfaces, but I have never seen the trip used for the purpose of letting a piece fall at the desired point."

[40]

[**Deposition of W. H. Purdy, for Complainant.**]

After the introduction of plaintiff's deposition, that of one W. H. PURDY was introduced on behalf of the complainant. In the year 1905 Mr. Purdy was in the employ of the defendant company. On direct examination he testified:

"I was foreman of the planing-mill of the defendant."

"A. I had nothing to do with putting in the planer or the arrangements behind the planers, only I changed the trip behind what was in there.

Q. How did you happen to change it? * * *

A. It didn't work just as I liked.

Q. Can you describe how that trip was before you changed it?

A. Yes, sir. Now, I had a six-inch board running out 20 feet or 18 feet—I forget now which.

Q. That was to the rear of the planer?

A. That was at the bottom right from the hind end of the machine right out 18 or 20 feet.

Mr. McCORD.—You mean by the hind end of the machine— A. Where the board comes out.

Mr. McCORD.—The back end of the planer?

A. Yes, the back end of the planer; and then I had two sides. I had two sides; I had a side up, a short side, say like that, and then I had a long side up here like that, say this up here—and I had a wedge or the device that is in there, there was a

(Deposition of W. H. Purdy.)

wedge here, when the board come through here—

Q. Where was that wedge—on the side of the receiving-box?

A. Yes, sir; on the side, and that wedged the board off and it would drop down onto the conveyor and go over on the resaw.

Q. Did that arrangement work satisfactorily?

A. It worked all right. We run it a couple of months, but it—in crooked lumber it didn't work very good, and short lumber.

Q. Did you know anything about or hear anything about the device Mr. Loggie had in his mill?

A. Yes, sir.

Q. How did you happen to hear of that?

A. The man told me that Mr. Loggie had a better rig than that he thought. [41]

Q. Did you go over to look at the rig, as you call it, in Mr. Loggie's mill?

A. Yes, I went over and I asked Mr. Westman to see it, and he showed it to me.

Q. Did he explain it to you?

A. Yes, well, it didn't need any explanation, he took me out and showed it to me.

Q. And you looked at it? A. Yes, sir.

Q. Did you put substantially the same trip back into defendant's mill?

A. Well, similar—it was not exact.

Q. How did it differ?

A. Well, it was practically done the same, but it was constructed a little different—that is all.

Q. In what way, Mr. Purdy? Just describe.

(Deposition of W. H. Purdy.)

A. Well, now, to tell you—I can't remember exactly how it was—I know it was a little different, but the result was the same—practically the same.

Q. Now, in the trip that you constructed after you went back to Mr. Earles' mill from an inspection of Mr. Loggie's apparatus, did you have the trip right up against the planer or a little ways from it?

A. Right up against the planer.

Q. How many of these trips did you change after you went back from an inspection of Mr. Loggie's plant—do you remember?

A. I changed two twins and one single machine."

On cross-examination, in referring to the contrivance he first put behind the planer in defendant's mill, he testified:

"My device registered the ends of the boards at the further end of the planer."

And in reference to the size of the "wedge" on this contrivance he testified:

"It was about six inches high and about eighteen inches long. When the plank struck that wedge it just tilted off. * * * I did not have a box. I just had a half box. It was solid all the way out, only the wedge set on the solid bottom." [42]

Referring to Mr. Loggie's patented device he testified that in his experience in mills he had never seen the same sort of a trip in use as Mr. Loggie's, and that he had never seen that particular trip before he saw it in Mr. Loggie's mill, and that until he had seen Mr. Loggie's he had never seen a trip that would hold a long thin piece of lumber up until

(Deposition of W. H. Purdy.)

it got out of the planer and then dropped it.

On redirect examination, in regard to the construction of complainant's top guide of the receiving trip and its function in comparison with Exhibit "1" and the so-called trip in connection with the structure, he testified:

"Q. I call your attention to the first page of the plans of Mr. Loggie's patent as set out in Complainant's Exhibit 'A,' and ask you if you understand what that designated as '2' is.

A. It looks to be on the machine.

Q. Yes.

A. I should judge that is a piece on the machine holding the board down on top.

Q. Now, I call your attention to Defendant's Exhibit '1,' to the portion of the drawing marked 'Iron Shoe,' and ask you whether that iron shoe performs the same function as the part of the drawing in complainant's exhibit marked '2,' in holding the board down?

A. One gives and the other is stationary.

Q. But they both hold the board down.

A. Both hold the board down; yes, sir.

Q. Now, what is this trip you tell us about in connection with this sticker?

A. Well, there is no trip.

Q. There is no trip there at all, is there?

A. Yes, there is a trip.

Q. In the sense of Mr. Loggie's trip?

A. What?

Q. There is no trip there at all, is there, as you

(Deposition of W. H. Purdy.)

call Mr. Loggie's trip? [43]

A. There is just a drop, that is all. Mr. Loggie's is a trip."

As to the witness' reason for copying complainant's patented device he testified on redirect examination as follows:

"A. I never thought of Mr. Loggie's way, but I thought of a way that it could have been overcome, but it would have been some expense to have changed the things, and so I never thought about any trouble or any patent or anything, only the fellow told me he had a pretty good thing over there and I went over and seen it, and it was a little better than ours, and I put it in."

On cross-examination the witness Purdy testified that the Kelley fulcrum was not installed in defendant's mill until after he had left defendant's employ. [44]

After seeing plaintiff's mill he had made some slight changes in certain parts of that of the defendant, and upon his cross-examination as to the general use of the "trip," etc., testified:

"Q. You have seen that principle in use in box factories and in mills generally, have you?

A. Well, in a sticker; you put out—say the lumber is coming through here, you have a wooden shoe that holds that down, and say the cutter-head is here, you put that shoe on, you generally put it out here to hold it solid until it passes, when it gets past there it drops down—that is molding; some planers are different.

(Deposition of W. H. Purdy.)

Q. The principle of the trip is as old as the lumber business, then?

A. The object of the trip is a drop; it has been a long while.

Q. And this is one of the things that is universally recognized as being old in the manufacturing lumber business, isn't it, Mr. Purdy—the trip?

A. Why, yes, they have them in sawmills—all kinds of trips.

Q. Performs the same function this performs—holds it in position until tripped when the bottom underneath falls out?

A. They have different devices: some of them run over onto a table or onto belts or onto chain conveyors. Now, in the mill I am working now, as lumber comes out of automatic conveyors chains and there is a place there after it goes out a little ways further, there is a man puts his foot down and it trips and drops down on a derrick and then it raises up again; there is all kinds of trips to a sawmill."

[**Deposition of Peter M. Westman, for Complainant.**]

The deposition of one PETER M. WESTMAN, witness on behalf of the complainant, was next introduced in evidence, and he stated in his deposition that he was in charge of the planing-mill of the complainant in the summer of 1904, and had been thus in charge for a considerable period. He stated that he was familiar with the machinery of the plaintiff by reason of his long service at this mill. Upon being questioned in reference to portions of plain-

(Deposition of Peter M. Westman.)

tiff's patent devices, testified on his direct examination as follows: [45]

"In the spring of 1905 W. H. Purdy came over to our plant and told me that they were figuring in putting some new machines in Earles' (defendant's) mill and he wanted to see how we was handling our siding.

A. I took him through the plant and pointed out the transfer. I didn't show him any particular part of it, because a glance at the conveyors would show any mechanic about what there was to it at that time.

Q. At the time Mr. Purdy came over in the spring of 1905, that you just told about, did you have in your mill, in your planing-mill, at that time, substantially what is shown in Figure 1?

A. Yes, sir.

Q. Did you have in your planing-mill substantially what is shown in Figure 2?

A. We had part of it and part is omitted in this cut. We had another trimmer table on this side.

Q. Otherwise just the same? A. Yes, sir.

Q. Now, did you have the arrangement as shown in Figure 3?

A. Yes, sir; the rest of this would be useless without that.

Q. And you showed this to Mr. Purdy at that time?

A. Yes, sir. I pointed to the transfer—how we operated that.

Q. Did you see Mr. Purdy at the planing-mill at any time subsequent to that?

(Deposition of Peter M. Westman.)

A. Yes, sir, Mr. Purdy—

Q. When?

A. It would be in the neighborhood of two months later on.

Q. Did you have any conversation with him then?

A. I did.

Q. What was it?

A. He told me that they had put in transfers and that he had found some trouble in tripping the boards so they would even up on one end—that is, the boards would run along and fall off at random—a short board might run away out sixteen feet before it would trip—that seemed to be his trouble.

Q. Did you show him how your system worked there? A. I did.

Q. Did you show him the machines you had constructed according to the patent? [46]

A. Yes, sir; you have reference to the shoe part?

Q. Yes. A. I did.

Q. I have reference to the mechanism that received the board back of the planer, whatever you call it—I don't know what you call it—you call it the shoe; some call it the trip—in connection with the planer-bed.

A. Well, I should call that a shoe."

With reference to the length of time the patent devices had [47] been in use in plaintiff's mill, this witness testified on cross-examination as follows to wit:

"The planer that came from Beloit, Wis., was put in our mill June 6, 1904. Prior to that time we had

(Deposition of Peter M. Westman.)

none of these conveyors, chutes and trips constructed in our mill and had made no model of it. I did not do any work developing it. We put the device in on July 3, 4, and 5th, 1904, when the mill was shut down. It took us three days working with four or five mechanics."

With reference to infringement by defendant of plaintiff's patent device this witness testified—on cross-examination—that he had visited the defendant's mill but had not particularly noticed its machines. Thereupon he testified as follows:

"Q. There was some arrangement, then, for dropping the lumber even before you claim that Mr. Purdy came over and asked you about your arrangement, wasn't there?

A. Well, they had not completed their mill when he came over to see me—their mill was not in operation at the first.

Q. Not in operation at the first time?

A. No, they had just ordered the machines at the first time he was over."

With reference to construction of a portion of plaintiff's patent device, this witness testifies on cross-examination as follows:

"This shoe is fastened on the bed-plate of the planer. The shoe is a piece of iron or steel $\frac{1}{2}$ inch by $2\frac{1}{2}$, about 12 or 14 inches long. It is laid lengthways—it is not across the board. As soon as the board gets to the end of the shoe it drops down onto these transverse or lateral conveyors, and that insures all ends to even up right where you want them

(Deposition of Peter M. Westman.)
regardless of any length.

Q. You say Mr. Purdy told you his ends didn't work right—couldn't register the ends right; what did he tell you was the trouble?

A. About his shoe, that they wouldn't trip even on the end he wanted them to."

"I showed him our arrangements to make the boards trip even, this shoe we put on there."

"Q. And that is stationary and not movable, is it?

A. No. [48]

Q. Is there any way that you know of by which that could be extended out further? If it was extended two feet further it would perform the same function, wouldn't it? A. Yes, sir.

Q. It would not change the principle?

A. No, sir.

Q. I say, anything would do—it doesn't have to be iron or steel, does it? A. No.

Q. Did you ever see this fulerum used in a place like that as testified to by Mr. Purdy this morning—an arm that comes down and is worked by a string and weight, or weight and string; as the timber comes through and strikes the elbow here it gradually slips it from under it; that would serve the same function, wouldn't it, as this shoe you are speaking of? A. No doubt but what it would."

And upon redirect examination this witness testified as follows:

Q. To get the record clear, Mr. Westman, what was it that you built there on July 6th, 1905?

A. On July 6th?

(Deposition of Peter M. Westman.)

Q. Yes.

A. We were about completing this transfer; that would be in 1904?

Q. Yes, that is it—1904.

A. We had this thing about completed on that date, July 6th.

Q. Did you build that trip and shoe on that date?

A. It was built sometime between the 3d and 6th—I couldn't say the date that shoe was built on, but it was between that date.

Q. Now, what would be the effect on the boards passing through the shoe or the trip if the shoe was placed across the boards,—clear across them,—would they choke up?

A. Why, if it come to a pointed board it would certainly be apt to wedge under the other one and the result would be your feed would stop.

Q. If you leave part of that box open and put this shoe [49] along lengthwise over one-third the surface of the board and leave the other open, does that avoid the choking up if you have a short board?

A. That brings it down to a very small percentage about choking up.

Q. That is, there is some give there then?

A. Yes, sir; I can run along and in the course of a week we might say we would not have a mishap of that nature."

On recross-examination this witness testified as follows: "Q. What difference would it make if the bottom of that box was solid clear across out to the edge of the tripper—out to the end of the tripper

(Deposition of Peter M. Westman.)

where the tripper let go—suppose at that point you only had a third of a ledge, the very moment the tripper let go and there was only a third of the ledge instead of the entire bottom it would dump it right off, wouldn't it?

A. I don't see no reason why that wouldn't work. I have not tried it.

Q. What do you mean by shoe? Point it out here. Is it shoe or chute?

A. No, I don't mean a chute. What you term a trip I would call a shoe—it is a piece of iron that is stationary; it is not a movable conveyor.

Q. What is it on that?

A. On this part here (indicating)?

Q. On that drawing Figure 1.

A. It would be this piece of iron that is bolted on here where the lumber passes under it.

Q. What number is it designated on this drawing, Figure 1—is it number 1? A. Yes, sir; No. 1."

And again, on his cross-examination as to a portion of the mechanism, testified as follows: [50]

"Q. This thing is fastened on to the machine, is it—this tripper of yours? A. Yes, sir.

Q. It is not fastened to the planer, is it?

A. Yes, sir.

Q. How is it fastened to the planer?

A. On the tail end of the machine."

[Deposition of James C. Kelly, for Defendant.]

JAMES C. KELLY, witness on behalf of the defendant, stated in his deposition, which was next introduced, that his business was that of mill build-

(Deposition of James C. Kelly.)

ing and designing, and had been so for a great number of years; that he had designed and built a great number of mills, sawmills and planing-mills, in Michigan, and was well versed with lumber manufacturing machinery. He stated that he was very familiar with the using of the "fulerum" in order to tip or trip lumber and to carry it away from the machines in the manufacturing of lumber, and that so far as he knew he was originator of such "fulcrum"; that he had never seen it used before he used it himself; that the same was put into operation in Mount Pleasant Lumber Company of Michigan in 1878. "We used it for to take lumber as it was them days practically dressed on one side and passed through the planer and dropped onto—well, in them days we had no chains running, we dropped it onto those rubber belt conveyors, and carried it to the place where it slid down to be loaded on to the car." That the lumber came out of the machine and was dropped down on transverse belts and carried out in the other direction from that in which it was proceeding, this different direction being at right angles. [51]

"Q. Just explain what kind of a device that fulcrum was and its use in that connection.

A. When we first put that in it was a construction of a piece of wood in an oblong form with a lever that stood up in that manner, a pivot in the center, you see, and a string, a cord—a string to the other end of it to get the pressure on the piece to hold it in the form to carry it out until it passed where it

(Deposition of James C. Kelly.)
dropped on the conveyor.

Q. How did that appliance compare with the fulcrum in use at the Earles mill now?

A. It is my idea.

Q. The same appliance?

A. Yes, it is the same, but they never got it in as I explained it to the ones who put it in.

Q. You say that was in use in Michigan in 1878 or 1879—somewheres along there? A. Yes, sir.

Q. What sort of a machine was used in connection with it?

A. Well, it was used with a common planer for lumber and ties.

Q. Railroad ties?

A. Well, those ties that were for bridge building—all bridge building them days we had to size them.

Q. Just describe the chute, the conveyor, in which it came out and the use of the fulcrum there.

A. The planer had this fulcrum connected to it about as that piece of print is there, and held the tie or board as it may be until it got to the point to drop off the conveyor, and then it fell on those belts and went to the point—the way we used it, an inclined elevator with skids down to where it was loaded on the car.

Q. What kind of a chute was it?

A. Where the conveyor run up—

Q. I don't mean the chute of that; I mean where it left the machine.

A. That was a piece of plank and a side piece to it.

(Deposition of James C. Kelly.)

Q. That was just half a box, was it?

A. A quarter of a box, you might call it.

Q. One side of the box; and what was the size of the bottom?

A. The way we had that, the bottom was movable—we could make it wider or narrower. [52]

Q. Make it a third or a half or whatever you wanted it? A. Yes, sir.

Q. How far from the planer was this fulcrum fixed?

A. Well, now, I don't know as I could tell—I could make a rough guess—it must have been probably two or three feet.

Q. Then it passed under the fulcrum just as these planks do over here?

A. Exactly, yes, sir; that was the object in having it there, so as to hold that piece until it come to the point to drop.

Q. What about the regularity that these ends would register; how about that?

A. Well, that—after it come off of this bottom here it had to fall you know.

Q. Where would it fall with reference to the fulcrum—the end of the fulcrum?

A. They took place right together—the minute the fulcrum let go, the piece dropped.

Q. I will ask you how and what your experience was as to seeing the regularity with which it registered the ends as it fell—would it be regular?

A. Oh, yes.

Q. Did you have any top guides to that?

(Deposition of James C. Kelly.)

A. No, sir.

Q. Is there any necessity for top guides?

A. What?

Q. Is there any reason for top guides?

A. I couldn't see why there should be.

Q. Is there any necessity or was there any necessity?

A. Not that I know of providing that this lever—this fulcrumed lever is properly put on, I couldn't see any necessity for anything to go above it.

Q. That appliance, then, compares in what way with the appliance in use in Mr. Earles' mill—the defendant's mill?

A. Well, that fulcrum there is practically the same—it is filling the same place, but not properly made, as it was—a man could make that a good deal better than the way we had it for thick and thin timber.

Q. How does it work now over there? [53]

A. It appeared to work very well.

Q. Are there any top guides on that in addition to the fulcrum now in Mr. Earles' mill?

A. Well, I couldn't tell you.

Q. If they are there do they serve any purpose?

A. I didn't pay much attention.

Q. Who assembled the machines—that is, the planer, the conveyor and the transverse carriers?

A. I did.

Q. And the location of the resaw and the trimmers? A. Yes.

Q. Who designed that? A. I did." [54]

(Deposition of James C. Kelly.)

Plaintiff objected to the introduction by defendant of any testimony of the witness James C. Kelley relative to the prior use of the so-called Kelley fulcrum or lever, on the grounds and for the reasons that no such prior use was pleaded in defendant's answer, nor was notice of such defense given at any time prior to the taking of testimony. Mr. Kelley testified that the Michigan mill where such prior use of the fulcrum or lever occurred was located at Mount Pleasant, Isabella County, Michigan, and that Upton & Leaton were the proprietors. The deposition of one Marsena D. Swan, hereinafter set out, was introduced in rebuttal of Kelley's testimony in respect to this prior use, however, not in any manner waiving plaintiff's above-stated objections to Mr. Kelley's testimony.

With reference to the substitution of the fulcrum or lever for the Loggie top guide, this witness testified as follows:

"A. We put in a structure of a board on top of the—for to hold it down—a board instead of a lever—that run there until Mr. Martin came to me and asked me if I couldn't get some device that would stop it from going under the belt, so I gave him a drawing of this lever business.

Q. He asked you to do that for what purpose you say?

A. He told me the boards was getting under the belt, did not hold this up right—the boards would drop before the time came to register them, you see, on the end. I told him if he would adopt the plan

(Deposition of James C. Kelly.)

that I proposed to him when we started to put them in there, and he asked me to make a drawing of that and I did so and gave it to him.

Q. That was put in that way—according to your idea? A. Yes, sir.

Q. That was the fulcrum you speak of?

A. Yes, sir. [55]

Q. And the fulcrum you copied from the mill that you had seen in operation in Michigan?

A. Yes, sir.

Q. You stated, I believe, at that time you designed the mill that was your instructions—your drawings showed the fulcrum in the first instance, did they?

A. Yes; that was the explanation I gave to the workmen that was putting it in, but they didn't get it in that form, as they didn't have a drawing of it—I didn't make a drawing of it to them at that time.

Q. Have you made a drawing of the mill that was in use in Michigan that you have been testifying about? A. Yes, sir.

Q. I call your attention to Defendant's Exhibit '1' and ask you if that is the drawing to which you refer. A. That is the one.

Q. Now, just explain how that operated, Mr. Kelley.

A. Well, now, we had a planer setting in this position; we had this lever, as we call it, this fulcrum lever on top of the quarter box; that dotted line represents the bottom; this represents the board coming out on top; that shows the bottom along there, and at the time it would pass through the trip here, of

(Deposition of James C. Kelly.)

course it was in this position here and would register right along over here, that trip let go right here."

[56]

[**Deposition of David E. Lain, for Complainant.**]

The deposition of the expert, DAVID E. LAIN, was introduced on behalf of complainant. For the purposes of brevity we shall combine the testimony of this witness in chief and on rebuttal. Witness said that he had had extensive education and experience in the field of mechanics and in investigating the patentability of electrical machines, consulting the United States Patent Office and frequently the English Patent Records, drawing up the specifications and claims and sometimes making the drawings; that he was a patent attorney, and as such had procured complainant's letters patent.

On being referred to Exhibit "A," being complainant's patent, and Defendant's Exhibits "7" and "8," being the letters patent of the Boyd and Moore patents respectively, and testifying as to the prior state of the art as shown by the Boyd and Moore patents as against the state of the art as shown by the Logie patent, he stated as follows:

"From the specification it appears that an apparatus is described which consists of several machines assembled and relatively placed for a specific purpose, namely, to convert rough boards of approximately the same width and thickness but of greatly varying lengths into finished beveled siding of varying but standard lengths and deliver the same on to a grading-table with the ends nearest the graders ap-

(Deposition of David E. Lain.)

proximately registering.

With certain described improvements, the several pieces of apparatus, which are combined in this description are of old and well-known use as separate machines and carriers excepting the apparatus called a receiving trip. Two of these receiving trips are shown in Figures 1 and 3 of drawings in Exhibit 'A.' Both are alike, and I will now refer only to the one shown at the right of Figures 1 and 3, consisting of the several parts designated by numerals '1,' '2,' '3,' '4,' '4,' '7,' and '9,' '9.' This receiving trip consists of a removable guide '1,' attached to the side guide small 'm' of the way or channel in the bed of the planer 'A,' and overhangs this channel. It further consists of parallel guides projecting from the rear of planer 'A' together forming a partly open-bottom channel which is a right line continuation of said channel in the planer bed. This receiving trip receives the planed and matched boards which pass through planer 'A' and retains them, regardless of length in the same plane in which they passed through said planer until they have passed beyond the planer-bed, when they are permitted to fall through parallel positions on to a transverse carrier beneath.

This receiving-trip constitutes the new element in the combination of machines. When the several machines and carriers constituting the old elements in the combination are placed substantially in the related positions described and shown in Exhibit 'A'

(Deposition of David E. Lain.)

and the receiving-trip is placed in its described and illustrated position in the combination, the whole constitutes an apparatus which performs the stated functions and accomplishes the stated objects of this invention; for with this apparatus planed and matched boards of varying lengths are automatically carried from the rear of a battery of planers, delivered to a position in line with and in front of a resaw with ends nearest said resaw registering; from here they are passed by hand through said resaw in the reverse direction from that in which they went [57] through said planers; then they are carried laterally by hand and placed on a trimmer-table; after being trimmed they are thrown on a longitudinal conveyor and move in the same direction in which they passed through the planers to a grading-table, where they are deposited, all registering at one end. As compared to other methods of manufacturing siding: By means of the receiving-trip and lateral conveyor in combination with the battery of planers two or more off-bearers are saved; because the boards are delivered in a regular manner with ends registering next to the station of the resaw man, one man and one resaw are saved; because the boards are regularly delivered to the grading-table with ends next to the graders registering, the services of one or more graders are saved; because of the longitudinal conveyor two off-bearers are saved; because the conveyors handle the delicate pieces of boards and siding more carefully than is done by hand, stock is saved; and finally, because of the parallel and re-

(Deposition of David E. Lain.)

verse directions in which the separate pieces pass during the several treatments, floor space is saved. The invention, therefore, resides in the provision of the receiving-trip in combination with the several woodworking machines and the conveyors, all relatively placed in such manner that together they may operate as and for the purpose specified. CLAIM 1 consists of the following elements in combination: First, a battery of planers, or similar wood-finishing machines; second, receiving-trips—this element is limited by the qualifications that they are so constructed and placed that they will retain the stuff as it comes from the planers, in substantially the same plane as it passed through the said planers, until it has passed entirely out of the same; and third, a lateral conveyor placed at the rear of said battery of planers and beneath said trips. In this combination the receiving-trip constitutes the new element. The limitation noted in the claim serves to prevent it from covering receiving-trips differently constructed and placed and having different functions which may be hereafter invented. And therefore these limitations also serve to preserve this claim from being invalidated, because of earlier receiving-trips of different structure, placing and function.

Claim 2 contains the same elements in combination as claim 1, with the addition of a receptacle at the delivery end of the lateral conveyor. It is stated in the specification that this receptacle may be simply a space on to which the stuff may be dumped by the conveyor. Claim 3 contains the same elements

(Deposition of David E. Lain.)

as claim 2, with the addition of the resaw specifically placed. In this claim the receiving-trip has no further limitation other than it must be placed longitudinally behind its planer. Claim 4 contains the same elements as claim 3, with the addition of the resaws specifically located. Claim 5 contains the same elements as claim 4, with the addition of a longitudinal conveyor specifically placed with reference to said resaws. Claims 6, 7, and 8 cover a planer in combination with a receiving-trip of specified structure, and are therefore specific to this receiving-trip in combination with a planer. In the testimony of Mr. Brooks, near the top of page 6, claims 1 and 2 are objected to because they are stated as being functional. These claims are not functional for the reason that a mechanical structure, a receiving-trip, is mentioned. Also on the same page of Mr. Brooks' testimony claims 4 and 5 are objected to as being mere aggregations. Claims 4 and 5 are not mere aggregations because each of the elements of the claim is a mechanism which, although it might perform a specific function independent of the others, is necessary in the combination in order that the objects of the invention may be accomplished; [58] and when these elements are all and each arranged as specified in these claims the objects of the invention are accomplished; the removal of any one of these elements from the combination would prevent the carrying out of the stated objects of the invention beyond that part of the process; that is, all of the elements specified co-

(Deposition of David E. Lain.)

operate to produce the result desired. I hold in my hand Defendant's Exhibit No. 7, being a United States patent issued to Boyd. This patent is not pertinent to this case. Boyd states, page 1 of his specification, line 16, referring to character of his invention and the manner in which it operates, especially to the pipes which it is to handle, as follows: 'and be automatically delivered to the cooling-table.' A study of this specification reveals that the automatic parts to which he refers must be those mentioned in page 2, lines 109 to 123, in which fixed guides '41' and leaf guides '43' are described as serving to deliver the tubes, after they fall from the receiving trough '15,' '21,' '22,' on to the moving cooling-table. But the receiving trough '15,' '21,' '22,' does not automatically drop the tubes on these guides '41' and '43,' for this trough is moved endwise by hand lever '31'—see page 2, lines 76 to 82, Boyd's specification—and it is opened or tripped by foot lever '23'—see page 2, lines 44 to 47 and lines 124 to 135, of Boyd's specification. Therefore no automatically acting receiving-trip is shown by Boyd. His receiving-trip is operated by hand and requires an attendant.

One of the stated objects of the Loggie invention is to avoid the necessity for this attendant. I hold in my hand Defendant's Exhibit No. 8, being a United States patent to Moore. I have failed to find in this patent any structure that is the equivalent of the Loggie receiving-trip, and I find an arrangement of the machines similar only to a small part

(Deposition of David E. Lain.)
of the Loggie arrangement.

In the first place, I believe the first part of the Moore plant as illustrated in Figure 1 to be inoperative when long flexible strips must be handled as in the manufacture of beveled siding. I believe it is mechanically impossible to deliver long boards from planer 'X' to carrier belts 'A' behind said planer in such manner that they will be delivered by said carrier to belt 'B' as illustrated without the use of apparatus further than that illustrated and described, for the reason that if belts 'A' 'A' are nearly on a level with the bed of planer 'X,' the piece 'Y' will sometimes push these belts one side or run under them or at best board 'Y' will have its outer end dragged forward by the belts before it has entirely passed off planer 'X,' thus putting it in a position where it will not be shoved from the planer bed by the next piece; this trouble would also be true in a measure if instead of two belts 'A' 'A' one wide belt was substituted; although the stuff could not then run under this wide belt, still by the friction of the outer end, which would be lying on the wide belt, it would be carried forward by the conveyor, the conveyor would in its attempt to carry that end forward either so cramp it in the guides of the planer that the rollers couldn't push it through, or else the friction would be sufficient to actually break the piece if it proved to be easily broken as frequently occurs in such stuff. Thus frequently, if not usually, the boards [59] would be delivered from planer 'X' to carrier 'A' in a way to prevent

(Deposition of David E. Lain.)

the proper operation of the plant. Again, if carrier 'A' is some distance below planer-bed 'X,' the outer end of the board will drop down on to the carrier and either be drawn to a diagonal position on the carrier or occupy such a position that it cannot be pushed off of the planer by the board next following. No illustration in elevation is given in the drawings of Moore of the planer 'X' and carrier 'A,' therefore, these supposed positions are necessary. If it be allowed that this part of the Moore plant is operative with such short pieces of boards as bed-slats, it is certainly entirely inoperative with such long and flexible pieces as the Loggie receiving-trip is designed to and does handle with entire satisfaction. On page 8 of Mr. Brooks' testimony occurs a reference to the Moore patent, Exhibit 8, stating that since the boards leaving the resaw 'C' pass between rollers large 'B-3' and small 'b-3' and guides in the form of grooves which retain them in horizontal position until they have passed through the saw, the provision of the Loggie receiving-trip for retaining the stuff in the same plane as it passed through the planer is met. **THIS IS NOT TRUE**, for the reason that Moore specifically provides the wedge-shape piece 'I,' Figure 7, of the Moore patent, to separate the resawed bolts, the widest at the top edge, and throw them over, scarf side uppermost, on belt 'J' as soon as the resawed strip has passed entirely through the saw. Thus as fast as the bolt advances through the saw it is forced out of the plane in which it passed through the saw by wedge 'I.' It

(Deposition of David E. Lain.)

is not pertinent to refer to the plane of the table as the plane of the saw, for the reason that this may be changed without shifting the saw, and is often so altered. The plane in which stuff comes through a planer or similar wood-finishing machine, is the plane passing through the cutting device; in case of a planer the plane passing through is the line of contact between the cutter-head and the stuff; in case of a saw the plane must pass through the saw. Therefore, in the Moore apparatus the design, purpose and effect of the machine and the proper performance of its functions is to force the stuff out of that plane in which it passed through the machine as fast as it passes the saw.

A. I don't find anything in the Boyd patent to properly interfere with the validity of the Loggie patent.

Q. Or with the claims of the Loggie patent?

A. No, not as restricted, as they are, by the qualifying clauses in the body of the claims.

In reference to infringement by defendant by which installation and use of the Loggie patent devices in defendant's mill the witness Lain testified that he first visited the mill on April 1, 1907, and that Defendant's planing-mill was then almost an exact duplicate of plaintiff's patented devices which had been installed in plaintiff's mill, and that in the summer of 1907, on subsequent visit to defendant's mill, there were no changes; that late in September or early in October, 1908, defendant had replaced the Loggie 'top guides' '1' and '2' with a Kelly fulcrum or lever; that he visited defendant's mill again in

(Deposition of David E. Lain.)

April, 1909, and defendant had restored the top guides again which had first been removed; and that this applied to a twin matcher and a single matcher-planing machine, and that beveled siding was being manufactured therewith.” [60]

On direct examination the witness Lain testified with reference to plaintiff’s patented devices as follows:

“Q. In figure 1 what letters and lines indicate the trip?

“A. There has been rather a varied terminology used here in regard to that trip. For the purpose of patent description I referred to the device of Mr. Loggie’s for retaining the lumber in place after it came from the planer as a receiving-trip. As I understood from him, the actual trip part was the top and guide pieces shown as ‘1’ and ‘2’ in that figure in the two planers and the receiving part the deep side guides numbered in the two cases respectively ‘3’ and ‘4’ and ‘5’ and ‘6’ and the—

Mr. McCORD.—Just wait a little bit.

A. (Continuing.) ‘3’ and ‘4’ are the deep side guides in the right-hand figure—you will notice the numbers at the very end—and the deep side guides ‘5’ and ‘6’ extending in the rear of ‘planer B,’ and ledges ‘4’ attached to deep side guides ‘4,’ and ‘6’ attached to deep side guide ‘6.’

Q. That is the receiving-trip and conveyor?

A. No, that is the receiving-trip.

Q. That is the receiving-trip?

A. That is those guides in connection with that

(Deposition of David E. Lain.)

top guide '1' and '2,' which are duplicates of each other, I speak of for the purpose of this description as the receiving-trip.

* * * * * * * *

The WITNESS.—I think the only confusion occurring on the witness-stand this morning has come—

Mr. McCORD.—Just wait until you are asked.

The WITNESS.— —rather from a looseness in the choice of names here."

WITH REFERENCE TO A SLIGHT TYPOGRAPHICAL ERROR in the patent the witness Lain testified as follows:

"A. There is a typographical error in the patent that came in an accidental way that no one especially is to blame for, and it is this: For instance, in page 1 of the specification, line 76, top guide '1,' it says: 'And top guide "1" the board "M" is driven,' and so on, it should not be top guide E1; it should be top guide One, and the trouble came from the typewriter using the same character for One and E1, and unfortunately I used E1 there for—

Mr. McCORD.—With that exception— [61]

A. (Continuing.) With that exception, which corrects itself in the E1 as referred to a few lines above as being a movable side guide—

Mr. McCORD.—I don't want to interrupt you, but I thought you were going over the same thing and I didn't see any use in it.

A. (Continuing.) With that exception the de-

(Deposition of David E. Lain.)

scription, I think, is very close and fairly carefully drawn.

Mr. McCORD.—We have had it checked and we think it is pretty accurate; go ahead, though. I don't want to interrupt you, but I didn't see any use of incumbering the record."

With reference to the use of the fulcrum on the machines in defendant's mill in October, 1908, and April, 1909, he testified on cross-examination as follows:

"Q. The fulcrum was in use on all the machines?

A. Yes, sir.

Q. And I believe you stated to Mr. Bruce that that performed the same functions as the shoe or tripper— A. As a fixed shoe.

Q. It would have the same effect.

A. It is movable and the other is not—it is movable vertically and the other is not.

Q. But performs the same mechanical functions?

A. Yes, sir."

This witness testified that as attorney for George W. Loggie, complainant herein, he had made application for the plaintiff's letters patent No. 837,087 on June 16, 1904, and this was verified by certified copies of letters and files from the United States Patent Office, then offered and introduced in evidence. [62]

The witness was called on rebuttal and referring to claims 6, 7 and 8 stated:

"Claims 6, 7 and 8 cover a planer in combination with a receiving-trip of specified structure and are

(Deposition of David E. Lain.)

therefore specific to this receiving trip in combination with the planer."

And identified Complainant's Exhibit "H," which purported to be a certified copy of the Patent Office files in relation to the patent involved in this controversy, which was admitted in evidence over the objections of the defendant, which objection was that the same was improper evidence to be introduced as rebuttal.

The deposition of the witness J. B. Hann was introduced on behalf of the defendant, who testified that he had on June 21, 1909, taken the photographs of defendant's planing-mill, as shown by Defendant's Exhibits 2, 3, 4 and 5, which exhibits were respectively offered and admitted without opposition.

[63]

[Deposition of J. A. Allard, for Defendant.]

The deposition of J. A. ALLARD was introduced on behalf of the defendant to prove prior use of a portion of plaintiff's patented device, or its mechanical equivalent, and plaintiff objected to the witness' testimony in this particular on the ground that the same was immaterial and incompetent, and that there was no such issue raised by the pleadings. In this deposition he testified that his business was that of designing, and constructing mills, and had been so for seventeen or eighteen years, part of which time was spent in Montana and Massachusetts and the remainder in Washington; that he was familiar with the machinery described in the Loggie patent and having been referred to a copy

(Deposition of J. A. Allard.)

of the patent stated:

"Q. Now, referring to the chute that receives the lumber as it leaves the planer or battery of planers to carry it off to the transverse carrier that takes the lumber off over towards the resaw, I will ask you if you have ever, in your experience, had occasion to observe the use of a similar chute in the handling of lumber for sorting purposes elsewhere?

A. Yes, sir.

Q. Now, just describe what other similar appliances to that you have seen and describe it and where you saw it.

A. I was running flooring through a chute with a bottom in it and any time you wanted to drop lumber out of it there was a part of a bottom out, which allowed the lumber to tip down; you could run it any place [64] you wanted to run it—any distance—and drop it down; one piece of flooring pushed the other.

Q. You say the bottom was false?

A. False bottom.

Q. A portion of the bottom was out.

A. Yes, sir.

Q. What proportionate part was left in—was a third of it?

A. Well, if we were running four-inch flooring there would be an inch and a half left in it so the flooring would drop down.

Q. That flooring constituted what is referred to in the Loggie patent as the ledge?

A. We used to have an inch board we used to run

(Deposition of J. A. Allard.)

up to the roll that when a crooked piece of lumber come, it would not go over the chute, but held it down in its position until it got to the place where it dropped, and after that the next one.

Q. I am asking you now about that portion in the bottom of the chute which you are referring to as left that constituted a sort of a ledge corresponding to the ledge in the Loggie machine. A. The trip?

Q. The thing that held it up under the bottom—the false bottom. A. Yes, sir.

Q. Now, then, what appliance was used to hold the lumber that was passing through that chute on the ledge in position to keep it from falling off?

A. It was a box—a rigid box—that is with two sides.

Q. It had a top on, did it?

A. Two sides and a top.

Q. The top held it down in position?

A. Yes, sir.

Q. And kept it from falling until it passed out from under the top; after it reached the edge of the ledge it would tumble off, wouldn't it?

A. Yes, sir.

Q. Now, I will ask you as to the principle of the false bottom and the principle of the top of the box, of holding it in position, how long has it been since you saw appliances in common use in this country?

A. In this country?

Q. Yes, I mean in the United States.

(Deposition of J. A. Allard.)

A. We had that one in Boston fifteen or sixteen years ago—something—

Q. What mills in Boston did you see it in?

A. Cressie & Noice.

Q. Was that used in connection with the planer?

A. Yes, sir; flooring; went through the planer.

Q. And the function of that was to—was what—to cause the lumber to drop—sort the lumber, dropping it at regular intervals? A. Yes, sir.

Q. That is the same thing that Mr. Loggie's—that is one of the functions that his appliance has, hasn't it—to drop the lumber and sort the lumber?

A. Why, he carries his lumber—it is just about the same principle—he carries his lumber to the distance where he wants to drop it and then he drops it.

Q. Then the solid plank on the box that you refer to takes the place of what is known as the trip in the Loggie patent, does it not? There it performs the function of holding the lumber down? A. Yes, sir.

Q. Did you ever see that chute used elsewhere?

A. No, I put one in similar to it at the Seattle Cedar Lumber Company.

Q. How was that?

A. That is the same only it is a battery of planers there, but I used this same idea there.

Q. Had you ever seen or heard of the Loggie patent?

A. I never did until here about ten days ago or a week ago.

Q. How did you devise your particular arrangement at the McEwan mills in Ballard?

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(Deposition of J. A. Allard.)

A. Why, it is so simple that anybody could.

Q. You devised it from what?

A. From ideas I had and seeing this other one.

Q. From the ones you had seen where?

A. In Boston. [66]

Q. How have you ever seen the transverse carriers that take the lumber over to another place so as to carry it back to the re-saw; you have seen that used—a conveyor for carrying lumber haven't you?

A. Yes.

Q. Where did you ever see that, how long ago?

A. You mean the conveyor?

Q. Yes, the conveyor—carrier—transverse carrier which takes it off to the side.

A. You mean transfer—you mean transfer or conveyor?

Q. Transfer.

A. Well, transfers have been used, I wouldn't say—as long as my memory—that is what they call a sorting table.

Q. The conveyor, of course, is old, isn't it?

A. Oh, the conveyor is—I have seen them ever since I can remember—that is, in different forms.

Q. When did you put in this appliance out at the McEwan mill?

A. I think either in the spring of 1905 or 1906—I wouldn't say which now—I am not prepared to say which of them two—it is when I remodeled the mill; it is on record.

Q. And that is similar to the one you saw in Boston? A. Yes, sir, I took it—

(Deposition of J. A. Allard.)

Q. And similar to the Loggie—

A. From that idea.

Q. The functions are the same, a false bottom?

A. Yes, sir.

Q. The top acts as a trip to hold the lumber in position until it passes out from under it, and then what causes it to fall?

A. On one side there is a part of the bottom left and any piece lumber that was more than that difference in width would drop down there.

Q. By force of gravitation?

A. By gravitation; yes.” [67]

On cross-examination this witness testified as follows:

“Q. That is, you only had one planer that worked on cedar siding? A. That is right.

Q. You never put in a mill that had any more than that? A. No, sir.

Q. How many planers were used in this mill that you say the trip was used where the flooring was manufactured? A. Only one planer.

Q. Just one planer? A. One planer.

Q. Where was the flooring conveyed after it was dropped?

A. Conveyed on a level floor and dropped on horses where it was bundled up.

Q. What did it drop on to?

A. Dropped on some inclines and on some horses to be bundled.

Q. As it got in the rear of the planer and out of the planer and in this chute it dropped, did it?

(Deposition of J. A. Allard.)

A. That is right.

Q. Would it always drop in the same place or drop at various places? [68]

A. A ten-foot piece would drop in the same place every time, a twelve-foot would pass along and drop in the next one, a fourteen-foot would drop in the second one, whatever way you start, at ten feet, every two feet you would drop two feet further on.

Q. It would drop right where you wanted to use it?

A. Yes, sir.

Q. And it would be bundled up there?

A. It would be bundled,—tied.

Q. Right where it dropped?

A. Right where it dropped.

Q. So that there was no transverse conveyor underneath there? A. No, sir.

Q. You have examined the specifications in this patent of Mr. Loggie's? A. Yes, sir.

Q. Have you ever seen a similar arrangement of machines described in there in any planing-mill?

A. No, sir.

Q. Never have? A. No, sir.

Q. Did you ever see that trip used in connection with a planer before? A. No, sir.” [69]

[**Deposition of J. D. Hills, for Defendant.**]

The deposition of J. D. HILLS was introduced on behalf of defendant to prove prior use of the structure resembling portions of the Loggie patented device, to which deposition and testimony plaintiff objected on the ground that the same was incompetent and immaterial to prove any issue under the plead-

(Deposition of J. D. Hills.)

ings. The witness testified that he was engaged in the business of mill designing and as a salesman of machinery, and had been so engaged for a period of twenty-five years; that he had examined the Loggie patent and particularly that part thereof known as the "chute," and upon the question as to whether he had ever seen a chute similar to this in use prior to June 16, 1904, proceeded to explain a contrivance used in mills for a long period of time prior known as the "V" trough and stated:

That the "V"-shaped trough he had reference to had no top, and that it merely consisted of two boards put together in a V-shaped manner with slots cut to let the boards drop, and a small chain running along the bottom of the drop to carry along the boards till the boards get to the openings through which they drop. The witness testified that he had never seen a receiving-trip constructed in the form described in the Loggie patent, and that he had never seen a battery of planers placed together in a cedar-siding mill, and that under the method in use outside of the method described in the Loggie patent to get the lumber through its process when being manufactured into bevelled siding it was handled by hand. He further testified that he was not a planing-mill man.

"A. The lumber passed through a 'V' trough; it might lay on one angle or on the other, and the lengths in this particular arrangement, lengths of lumber, were all the same, starting with a four-inch width, as this lumber went along this inclined side when it came to that opening the four inch would lay there,

(Deposition of J. D. Hills.)

if it laid on the other side it would do the same thing there, and the next piece being six inches it would pass over and drop into another opening that would let a six-inch [70] piece through, and along up to as wide as they was sorting."

He further testified that the different elements of the Loggie patent would perform identically the same functions in the positions in which they were placed by Mr. Loggie as the *different ordinarily* perform in every mill; that is so far as the functions of the planer, re-saw, carrier and chute are concerned, each performs its functions independently of the other, and that he did not believe it required any inventive skill to arrange the machinery in the manner in which it is arranged in the Loggie patent, and each of these different elements would perform the functions that it did perform whether the other elements were present or not. He further testified that it was an aggregation of machines and not a combination.

[Deposition of Charles Cobb, for Defendant.]

The deposition of the witness CHARLES COBB was introduced on behalf of defendant, and this witness testified that he was planing-mill foreman in defendant's mill, and that about two or three weeks prior to June 29, 1909 (the date of taking his deposition) the flat board had been removed that constituted the top guide of the receiving-trip mechanism which had been installed in defendant's planing-mill. [71]

[Deposition of Marsena D. Swan, for Complainant
(in Rebuttal).]

On rebuttal, the deposition of one MARSENA D. SWAN, of Isabella County, Michigan, was introduced in behalf of complainant. He testified that in the later seventies and early eighties he was working in the Upton & Leaton sawmill at Mount Pleasant, Michigan, as setter, head sawyer and foreman at various times. He further testified:

"I worked in this mill all the time that James G. Kelley worked there. The mill cut pine, hemlock and various kinds of hardwood into lumber dimension stuff. About in the eighties the mill cut railroad ties for the Ann Arbor Railroad and some oak bridge ties for the Pere Marquette Railroad. I was familiar with the machinery, conveyers and carriers in the mill and helped to keep them in repair."

The means used to convey the lumber away from the mill after being sawed was a horse and car. The lumber, slabs and timber was conveyed from the saw on live rollers. The lumber was passed through an edger and then a set of trimmers and then onto live rollers and conveyed to the horse car. They experimented on cutting railroad ties for The Ann Arbor R. R. Co., and at that time they put up a set of rollers to convey the ties out of the mill to a platform that was erected beside the tramway at the height of a flat car, there to be loaded onto the car by hand. That set of rolls was operated by a belt and pulley; and the same was started and stopped by a tightener operated by a man.

(Deposition of Marsena D. Swan.)

I was well acquainted with one James G. Kelley, a millwright, during the time I was working in said mill. He was head sawyer, filer, millwright and engineer at different times. I worked with him at millwright work. He was a good millwright and a good all-round mill man.

The device used to transfer the ties was a set of rollers put in a frame that extended out to the loading platform, from the end of the live rollers where the slab saw was located. The rollers were driven by the use of a belt and pulley which was stopped and started by raising and lowering a tightener. As we did not have a carriage that we could cut less than twelve feet on, we had to cut all the tie timber sixteen feet long, and then as it came from the saw on the live rollers to the slab sawyer, he had a device to stop the tie timber at a point eight feet from the end and then he with slab saw cut the tie eight feet, and then as it passed on, the slab sawyer, by means of lowering the tightener on to a belt it started the rolls and conveyed the ties to the loading platform.

The device I have described as being used to convey the ties to the loading platform was designed by James G. Kelley, and built by Kelley and myself.

I have examined the blue-print marked 'Copy of Defendant's Exhibit I,' and have to say that there was no such device nor anything similar to it, to my knowledge, in the said mill at any time." [72]

[Deposition of Stephen A. Brooks, for Defendant.]

The deposition of the expert, STEPHEN A. BROOKS, witness on behalf of the defendant, was next introduced, who identified Defendant's Exhibit 6, being a copy of the patent issued to Thomas J. Bray and being numbered 721,006, identifying at the same time Defendant's Exhibit No. 7, being a patent issued by the United States Patent Office to one Peter Boyd, and being numbered 685,465, and also identifying Defendant's Exhibit No. 8, being a copy of the letters issued to William H. Moore, numbered 299,832, all of which three exhibits were admitted in evidence without any objections.

As to Mr. Brooks' qualifications as an expert witness, he stated that he was an attorney in patent causes and actively engaged in the practice as such attorney in the [73] city of Seattle, State of Washington; that he had about nine years' experience in the city of Washington in the Patent Office, and had been in constant attendance on examinations of patents in that office; that he had been actively engaged in the practice of the patent attorney in Seattle for about four years, and was a member of the firm of patent attorneys in that city by the name of Adams & Brooks, and had been admitted to practice before the Patent Office in Washington for a period of about ten or eleven years; that the evening before testifying he had examined the machinery used by the defendant company, which was in controversy in this action, and less than a week before testifying had examined the specifications of the pat-

(Deposition of Stephen A. Brooks.)

ent introduced in evidence by the plaintiff. Relative to these letters patent he stated:

"A. The invention set forth in the Loggie patent, as I view it, is the provision of a transfer means acting to transfer lumber from one conveyor to another; said conveyor being angularly disposed. The description of Loggie, in coming down to the essence of the patent,—or invention, sets forth many other objects, among which is found the reduction in the amount of floor space and the improvement in conveyors. If the invention designed in the provision of the transfer *means*, *in the broad spirit it is immaterial from what conveyor the article conveyed is transferred*. Therefore, in the Loggie patent, the feed rollers (small *f* prime) constitute a conveyor, from which the boards are transferred to a lateral conveyor consisting of a plurality of belts (16). To prevent the board from tilting, as it passes from the conveyor of the planer, a so-called 'trip' is employed. The description of this trip is indefinite, and the drawings do not bear out the description with the reference characters used therein. However, Loggie states that on top of one of the side guides of the feedway of the planer he provides a removable guide, which projects a short distance over the floor (small *i*) and boards delivered from the planer, in passing on the parallel guides (3 & 4) arranged over the lateral conveyor, are supported by the last-named guides in a substantial horizontal position until they have passed free of the planer, when their rear end portions, becoming disengaged by moving

(Deposition of Stephen A. Brooks.)

from under, the top guide and as the said boards are permitted to fall by gravity from the supports (3 & 4) so as to strike at all points simultaneously on the lateral conveyor. In this connection, in figure one, the removable top guides are indicated by the reference numerals (1 & 2) and another guide, improperly lettered, (small) [74] (1), which latter reference character, according to lines 72 to 100 of page one of the description of Loggie, is intended to indicate the guides (1 & 2).

Claims 6 & 7 & 8, I believe to be specific to the top guides attached to one of the said planer-bed's side guides and extending over said channel backs.

The second object specified by Loggie, with respect to the reduction of the amount of floor space is accomplished by arranging the machines in a compact form. With the course of the product being clear, by reference to figures 1 & 2, in which from the planer (M & O) the planks are tripped onto the lateral conveyor, then deposited on to 1226, transferred by hand, to the re-saw, then to the trimmer, and finally the trimmed stuff all thrown onto the conveyor (30) and conveyed to the grading table (41), One (1) indicates a support for guiding the strips of wood in their travel from the planer, said supports extending rearwardly from the planer, and being provided with a retainer tube, which latter is yieldingly pressed into the path of the travelling strips, and is adjusted by the same to compensate

(Deposition of Stephen A. Brooks.)

for varying thicknesses in the lumber planed.

Retainer (2) in fulcrum, or pivotly supported on a hanger (3), and is connected by flexible connection (4) passing over a sheave (6) to a weight (5). Retainer (2) has an end serving as a shoe, which projects downwardly onto the support (1) and normally rests against the bottom wall thereof; and the upper end of this retainer is connected to the flexible connection (4) whereby the weight (5) exerts a pressure tending to yieldingly hold the shoe of the retainer in the path of the travelling strips. By this construction the retainer acts identically, whether a thick board or a thin board, with leaving the planer. The only difference being that the retainer, in the passage of a thick board, is elevated more than in the other instance. In the prior art (see U. S. Patent to Moore) (2 double line 832) in which the conveyor (large *A*) is arranged at one end with the planer (large *X*) to travel on an angle thereto. By this construction a bolt (see lines 20 to 45 of page 2 of description) coming from the planer (large *X*) falls across two belts (large *A*) by which it is carried across and deposited on an endless belt (large *B*) belting 'B' forming a conveyor, carries the boards to a re-saw (large *C*) from which the divided pieces are conveyed to conveyor (large *J*) to a planer (large *L*). In view of this patent, it is obviously an old expedient to equalize on space by the arrangement of conveyors in substantially the same manner as illustrated in the Loggie patent; and in view of this patent to Moore the only re-

(Deposition of Stephen A. Brooks.)

maining feature to be considered is some means for retaining the strips so that they will be maintained in a substantial horizontal position until they are entirely free of the planer, or its equivalent. That it is not new, too [75] broadly supports the article to be transferred until it is entirely free of the means from which it was discharged, is shown by reference to Boyd, 685,465, in which we have a support, or trough (15) arranged over one end of a conveyor, designed to receive the article transferred from the mechanism indicated at 24. This apparatus aims to provide an efficient means for transferring from sizing roll (24) pipe or bars, to a lateral conveyor having the projection (12).

That this support must be provided with a retainer is apparent. And for this purpose a pivoted section (16) is provided, the latter, upon freeing the pipe or bars, permitting of the same to fall by gravity to the lateral conveyor in such manner that one end thereof cannot fall on the conveyor in advance of the other end. (See lines 65 to 70 and lines 78 to 82, of page 1 of description.)

That Boyd was not the only one to provide a transfer means which support the strips of wood, or its equivalent, in a horizontal position, until, when freed they would fall in the same manner as in Boyd, reference should be had to Moore above referred to, in which from the re-saw (c) to the planer (1) is an intermediate conveyor (j) onto which the strips produced by the re-saw fall by gravity. This action being accomplished by the provision of a roller

(Deposition of Stephen A. Brooks.)

(large B-3) (Small b-3) and guides in the form of grooves (small i). By reference to lines 71 to 75 of page 2 of description to Moore, we find 'when they are relieved (slats) from the grasp of the rolls (small d-3), (large D-3) they fall apart, saw scarth upward, on the top of the endless belt (large J).'.

In view of the description in Boyd and Moore, we find that when Loggie entered the field of invention, first, the arrangement of a lateral conveyor, with respect to a planer identical with his, was owned. And second, that it was not broadly new to provide a transfer means which received and held the article to be transferred until the said article could be dropped as an entirety onto a receiving conveyor. If this be true, and Moore and Boyd, I believe, disclose such facts, then Loggie has at most produced an invention of a specific nature.

.
In claims 6, 7 & 8, we find the limitation of the top guide which acts to retain the strips leaving the planer. Now, in defining from the preceeding claims the invention has been brought down to a specific arrangement of parts, and that specific arrangement of parts must be construed, if granted patentable invention, in the light of a prior art. Therefore, the prior art discussed having disclosed that it is old to transfer from one mechanism to a conveyor by means which hold the article transferred so that it cannot fall onto the receiving conveyor until it can fall as an entirety, said conveyor being latterly disposed, then a subsequent invention

(Deposition of Stephen A. Brooks.)

for a similar purpose must in its claims define from such structure. And if the required patentable invention, to adopt a device old in the metal working art to the wood working [76] art, then such patentable invention must absolutely reside only in such means which adopt the old machines, or transfer device, to the new art.

And so where Mr. Loggie appeared in the field subsequent to a number of other parties, and worked along the same lines, with the same object in view, his invention cannot be considered in any other light than an improvement on such power, and any claims presented by him, depreciating in terms, must be read and their scope determined by the art in view of which they were drawn.

The device illustrated in exhibits 2-3-4 & 5 is an improvement over the construction shown in Boyd, wherein a trough-shaped support and pivoted retainer is employed. That it is an improvement over said construction to Boyd is evinced by the failure of the latter to accommodate bars varying in thickness, or diameter, and that it is an improvement over Loggie for the same reason.

.
In view of the matter, from a mechanical standpoint, it appears that it was Loggie's intention to obtain efficient results by a compact arrangement of the parts, which will be understood that in Moore 299,823, a structure was shown on which the patentee absolutely believed that new direct mechanism would be necessary at the juncture of the two con-

(Deposition of Stephen A. Brooks.)

veyors, moving at right angles. That is another point in this mechanism problem—that is, in where he allows his strips to fall onto a conveyor after having been sawed, he realized the necessity, or deemed it advisable, to provide a guide at this point. By this guide, when placed at the rear end of the planer (large X) a substantial equivalent of Loggie's structure would be presented.

In view of that light, and especially in view of the patent to Boyd, wherein the support and retainer is illustrated, it proved beyond a doubt that the invention in all broad respects is disclosed by the prior arts, and that it is extremely doubtful as to whether or not a skilled mechanic, with these patents, construing the prior art before him, could not have constructed a transfer device of the type shown in both Loggie's and exhibits 2-3-4 & 5.

If this was within his realm, or scope of work, then patentable invention would not be held to be passed by either structure." [77]

Complainant's Exhibits "A," "B," "C," "D," "E" and "H," and Defendant's Exhibits "1," "2," "3," "4" and "5" were admitted in evidence without objection, except that Complainant's Exhibit "H" was objected to by defendant as is hereinbefore recited.

Thereupon, in furtherance of justice, and that right may be done, the parties hereto present the foregoing as their Bill of Exceptions or Statement of Facts, and pray that the same may be settled, allowed, signed and certified by the Honorable Judge

Cushman, who has succeeded the Honorable Judge Hanford, all in the manner provided by law.

DORR & HADLEY,

J. W. KINDALL,

Attorneys for Complainant.

KERR & McCORD,

Attorneys for Defendant.

[Endorsed]: Stipulation and Proposed Bill of Exceptions. Filed in the U. S. District Court, Western Dist. of Washington. April 16, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy. [78]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Complainant's Exceptions to Interlocutory Decree.

Comes now the above-named complainant, by Attorneys Dorr & Hadley, and J. W. Kindall, and makes the following exceptions to the interlocutory decree herein heretofore entered, which exceptions are particularly as follows, to wit:

Complainant excepts to

1. The interlocutory decree, and the whole thereof, as heretofore signed by this Court.
2. That portion of said interlocutory decree finding Claim 1 of complainant's patent invalid.
3. That portion of such decree finding Claim 2 of said patent invalid.
4. That portion of said decree finding Claim 3 of said patent invalid.
5. That portion of said decree finding Claim 4 of said patent invalid.
6. That portion of said decree finding Claim 5 of said patent invalid.
7. That portion of said decree reading as follows, to wit:

"It is further ordered, adjudged and decreed that that certain substitution adopted, constructed and installed by the defendant in its mill avoided infringement of complainant's patent, which substitution is described as follows: A down-presser of the lever and fulcrum principle, resembling in form [79] a human foot attached by a pivot pin at the ankle joint to a stanchion, with the heel part toward the planing machine and elevated so as to permit the boards to pass under it, the toe part acting as the down-presser, the power of the lever being effectuated by a suspended weight attached to the heel by a cord looped over an overhead pulley to raise the heel so that the weight presses the toe down and the inclined position of the foot permits the boards to pass under it and, when shoved beyond the toe, to tip and fall from the under-support through the open space between it and the side wall of the chute, down

upon the lateral carrier."

8. Complainant further excepts to the refusal and failure of the Court to grant by said interlocutory decree injunctions in favor of complainant and against defendant enjoining further infringement of, respectively—

- (a) Claim 1 of complainant's patent;
- (b) Claim 2 of complainant's patent;
- (c) Claim 3 of complainant's patent;
- (d) Claim 4 of complainant's patent;
- (e) Claim 5 of complainant's patent.

These exceptions are noted in this manner and at this time for the reason that said interlocutory decree was signed in chambers by the Honorable Judge Cushman, of the above-entitled court, while absent from the city of Seattle, at which place the cause is pending, and in the absence of the attorneys in this cause, and these exceptions are thus made and noted by stipulation between the attorneys for the respective parties hereto.

DORR & HADLEY,
J. W. KINDALL,
Attorneys for Complainant.

O. K.

KERR & McCORD,
Attorneys for Defendant.

[Endorsed]: Complainant's Exceptions to Interlocutory Decree. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 17, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy.

[80]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Order Allowing Complainant's Exceptions [to Inter-
locutory Decree].**

The complainant's exceptions to the interlocutory decree in the above-entitled matter having been called to the Court's attention, and it appearing to the Court that said exceptions, as so made and noted by attorneys for complainant, should be allowed, for the reason that said interlocutory decree was entered by the undersigned Judge of said court in chambers while he was absent from the city of Seattle, and at a time when none of the attorneys in said cause was present;

It is now therefore ordered that said exceptions of the complainant to the said interlocutory decree be,

and the same are hereby, respectively allowed by the Court.

Dated this 18th day of February, 1913.

EDWARD E. CUSHMAN,

Judge.

O. K. as to form.

KERR & McCORD,
Atty. for Deft.

[Endorsed]: Order Allowing Complainant's Exceptions. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 19, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy. [81]

[Opinion.]

United States District Court, Western District of Washington, Northern Division.

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Filed ——.

Suit in equity for an injunction against continued infringement of a patent for sawmill apparatus and for an accounting and damages for past infringement. On final hearing. Decree granting an in-

junction and awarding nominal damages.

J. W. KINDALL, S. M. BRUCE, DORR &
HADLEY, for Complainant.

DELBERT H. DECKER, on Complainant's
Brief.

KERR & McCORD, for Defendant.

HANFORD, District Judge:

This is a patent infringement case, founded upon United States letters patent No. 837,087, issued to the complainant for a combination of sawmill apparatus styled "Receiving-Trip and Conveyer." The specifications of the patent describe an assemblage of machinery with conveyers, guides, bins and tables conveniently arranged in the interior of a factory for making weather boards for covering the exterior walls of houses.

The aggregation comprises two or more planing-machines, set parallel to each other; guides, adapted to clamp the pieces of timber, on which the planers operate, after they pass the cutters to hold them flat, straight and level until the entire length of the pieces have passed from the discharge ends of said machines and then drop them transversely upon a series of carrier belts, [82] which, actuated by pulleys, carry the pieces laterally in a direction at right angles to the line on which they have traveled through the planing-machines; a bin or platform, into or upon which the pieces are deposited by said lateral carrier; a re-saw, which divides the thickness of the planed pieces making of each two bevel-shaped weather-boards, which is set in a position parallel to the planing-machines; a trimmer table,

upon which the boards are deposited after passing the re-saw, which is also set parallel to the other machines and has suspended on hangers above it, two trimmer saws; a longitudinal traveling belt, on which the boards are carried longitudinally from the trimmer-table to a sorting-table, from which the boards may be taken as required to be stacked or loaded into cars or wagons. The entire apparatus is designed to operate upon pieces of lumber of the required width and double thickness of weather-boards, and of varying lengths, to surface, divide, and trim them in a continuous movement. The guides and lateral carrier act automatically in delivering the planed pieces from the planing machines to the bin or platform, with ends nearest the re-saw registering. It is unnecessary to describe in detail all of the minor equipments described in the specifications of the patent; the guides, however, must be particularly described. They are in two parts, the first of which consists of two boards or pieces of scantling forming the sides of a chute set horizontally upon, or into, the bed-plate of each planer, spaced to form a channel between the two, wide enough to accommodate the passage of the planed pieces as they travel flatwise through and from the planers; one of the said side-strips being movable so as to change the width of the channel if required to accommodate wider or narrower boards; the other side-strip [83] is fixed rigidly, and has annexed to it a bottom piece forming an under-support for the planed boards which is less than one-half as wide as the boards which are shoved upon it as they

pass through and from the planer; there is also annexed to said rigid side-strip, a top board jutting over the under-support which acts as a down-presser, holding the boards down upon the ledge or shelf constituting the under-support. Said rigid side-strip, the under-support, and the down-presser constituting a side groove through and along which one edge of the planed boards travel through and from the planer, holding the board flat and level until it has passed beyond the bed-plate at the discharge end of the machine; the second part of the guide is an extension of the side-strips and the under-support extending longitudinally across and above the lateral carrier, held in position by hangers attached to overhead beams and abutting end-on to the side-strips and under-support of the first section; the side-strip of the extension to which the under-support is annexed is rigid like the one of which it is an extension and the other is supported by a swinging hanger hinged to the overhead beam which permits movement to change the width of the channel; between the edge of the under-support and the adjustable side-strip there is an open space through which the planed boards drop upon the lateral carrier after they have passed beyond the end of the side groove above described. There being no top piece upon the second section of the guide to prevent the boards from tipping they drop by gravity through said open space and as they all drop as soon as they have passed out of the side groove the ends nearest to the machines register, regardless of their lengths. They may be taken at once to the re-saw

or allowed to accumulate in the bin or upon the platform above described. The [84] re-saw has capacity equal to that of two or more planers. The bin or platform contains fenders to prevent an accumulation of boards from chafing the carrier belts. In operation, pieces of timber of the required breadth and double the thickness of weather-boards are passed through the planers and guides and dropped upon the lateral carrier and by it deposited automatically in the bin or upon the platform, with ends uniformly near to the re-saw, from which they are taken by hand and passed, in a direction reverse to the course through the planers, through the re-saw and thence to the trimmer-table, where an operator trims the ends, if necessary, or cuts out knots or defective parts, and they are then passed to the longitudinal carrier by which they are conveyed to the sorting-table. The several operations of surfacing, re-sawing, trimming, and sorting may be, but do not necessarily have to be, in a continuous movement. One or more of the planing-machines may be in operation while the others constituting the battery may be idle or all may be in operation simultaneously and the planing-machines may all be idle while the re-saw performs its function. The guides, lateral conveyor, bin, or platform, re-saw, trimmer-table, longitudinal conveyor and sorting table are placed at different elevations so that gravity assists in the general operation. The merit of novelty and invention is claimed for the entire arrangement of machines; the advantages being economy of space, reduction of the number of persons required to carry

on the work and rapidity. The feature of the combination which is new consists of the two part guide above described. In the title, specifications and claims of the patent, the word "Trip" is used to denominate this important part of the combination. There is manifest originality in this application of that word. I do not find in the dictionary definitions of [85] that word any authority for its use as a noun descriptive of any particular device or thing. By his testimony in this case, the inventor seems to have an indefinite idea of its meaning. In the first five claims of the patent the word "Trip" appears to be applicable, only, to the second section or longitudinal extension of the guide, and each of the other claims refer to it as a "receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel bottom." This "top guide" is the part of the guide which in this opinion I have denominated the "down-presser," as its function is to prevent the planed lumber from tipping before it has advanced to the proper place for tipping. Therefore, I must assume that the word "trip" in claims 6, 7, and 8 is applicable to so much of the guide as includes the down-presser and the second section or longitudinal extension thereof.

The claims of the patent are of the following tenor:

"1. The combination of a battery of planers or similar wood-finishing machines; a receiving-trip extending longitudinally from the rear of each of said planers, said trips so constructed and placed that

they will retain the stuff as it comes from the planers, in substantially the same plane as it passed through the said planers, until it has passed entirely out of the same; and a lateral conveyor at the rear of said battery of planers and beneath said trips.

2. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each machine, said trips so constructed and placed that they may retain the stuff as it comes from the planers in substantially the same plane as it passes through said machines until it has passed entirely out of the same; a lateral conveyor at the rear of said battery of machines and beneath said trips; and a receptacle at the delivery of said conveyor.

3. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyor located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyor; and a machine to complete the second stage in the process of manufacture, said machine located near one end of said receptacle, and preferably in file line with said battery of planers. [86]

4. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyor located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyor; a machine, or machines, to complete the second stage in the pro-

cess of manufacture, located near one end of said receptacle, and preferably in file line with said battery of planers; and a machine, or machines, to complete the third stage in the process of manufacture located by the side of the last-mentioned machines, and in file line with said battery of planers.

5. The combination of a battery of planers or similar woodworking-machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyor located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyor; a machine, or machines to complete the second stage in the process of manufacture located near one end of said receptacle and in file line with said battery of planers; a machine, or machines, to complete the third stage in the process of manufacture located by the side of said last-named machines and in file line with said battery of planers; and a longitudinal conveyor the receiving end of which is located alongside of and below said last-mentioned machine, or between said last-mentioned machines, and the delivery end of which is located above a table.

6. The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep, side guides registering with the side guides on said planer-bed; and a narrow, bottom guide or ledge attached to one

of said deep side guides and registering with said channel-bottom.

7. The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep, side guides registering with the side guides on said planer-bed; a narrow, bottom guide or ledge attached to one of said guides and registering with said channel-bottom; slotted spreaders attached to said deep side guides; and supporting-hangers also attached to said deep side guides.

8. The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep, side guides registering with the side guides on said planer-bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel-bottom; slotted spreaders attached to said deep side guides; and supporting-hangers also attached to said deep side guides, one set of said hangers is attached overhead in a hinge-joint parallel with said guides and the other set is rigidly attached overhead.” [87]

For convenience, and to make this opinion lucid,

I will restate these claims, using my own descriptive words in lieu of the terms of the patent:

The first claim of the patent is for a combination, the elements of which are:

2. A battery of planing-machines, that is to say, several planing-machines set parallel to each other.

b. The second section or longitudinal extension of the two part guide above described.

c. The lateral carrier above described.

Claim 2 is for a combination, the elements of which are the same as claim 1, and the addition of a receptacle which I have heretofore referred to as a bin or platform. It may be a mere vacant space into which the planed lumber may be deposited by the lateral carrier.

Claim 3 is for a combination, the elements of which are the same as in claim 2, with the addition of the re-saw for dividing the thickness of the boards which is the second stage of manufacture.

Claim 4 is for a combination, the elements of which are the same as in claim 3, with the addition of apparatus for trimming, constituting the third stage in the process of manufacturing weather-boards.

Claim 5 is for a combination, the elements of which are the same as in claim 4, with the addition of a longitudinal conveyor conveniently located to carry the finished boards from the trimming table to the sorting table.

Claim 6 is for a combination, the elements of which are:

d. A single planing-machine the bed of which has

a channel [88] composed of a bottom and two side guides.

e. The down-presser above described.

f. The two side pieces of the second section or longitudinal extension of the two part guide placed in line with and ends butting against ends of the side-strips of the channel on the bed-plate.

g. A narrow under-support annexed to one of said side pieces in line with and abutting the outward end of the bottom piece of the side-groove upon the planer bed heretofore described.

Claim 7 is for a combination, the elements of which are the same as in claim 6, with the additional elements of slotted spreaders adapted to space the side pieces of the second section or longitudinal extension of the two-part guide, and the supporting hangers attached to overhead beams and to said side pieces.

Claim 8 is for a combination, the elements of which are the same as in claim 7, with a more detailed description of attachments to the supporting hangers and guide constituting the means for spacing them as required.

One of the defenses pleaded in the answer is, anticipation, and there has been introduced in evidence several patents antedating the complainant's patent, the most important of which is United States patent No. 299,832, dated June 3, 1884, to W. H. Moore for a machine for making bed slats. This patent is for an invention relating to the manufacture of bed-slats where a bolt of timber having double the thickness required for slats, after being planed on both

sides and both edges moulded, is afterwards divided to make two slats. The patent states that the object of the invention is to take the bolt as it comes from the planer and automatically split it into two slats with a splitting saw and [89] plane off the saw-scarf thus formed, and deliver the finished slats at the end of the machine. This result to be accomplished by a process of operation described as follows:

The bolt, as it comes from the planer, falls across two traveling belts, which carry it off at right angles and deposit it on edge in an open trough, the bottom of which is formed by an endless belt which with the aid of grooved friction-rollers carries it through the operation which divides it into two slats. That apparatus is designed and well adapted to do for bed-slats, all that and more than the complainant's apparatus can do for weather-boards, and the work of manufacturing bed-slats is similar to the operation of making weather-boards.

The substantial difference between the apparatus described in the Moore patent and that described in the complainant's patent is in the adaptability of the latter for delivering, automatically, boards that are long and limber, which the Moore patent lacks. The structure designed by the complainant and described in his patent embodies the general idea of the Moore patent with the additions required for handling automatically material suitable for making weather-boards, therefore, it is an improvement in wood-working machinery, but not a pioneer invention, entitling the patentee to a broad construc-

tion of the claims of his patent, including the right to substitute equivalents for the particular parts of the structures described therein. Chutes for guiding lumber when shoved endwise have been in general use for many years, and all that appears to be original in the complainant's apparatus is, a chute constructed with a side groove along part of its length and an opening in its floor on its opposite side along the remainder of its length, placed in a horizontal position so that lumber shoved through it will be retained [90] flat, straight and level while one edge is clamped in the groove and then dropped horizontally through the floor opening. It is the decision of the Court that the monopoly entitled to protection under the complainant's patent is limited to cover, only, the two part guide constructed according to the specifications of his patent, in combination with a planing-machine and a transverse conveyor.

I hold that the first five claims of the complainant's patent are void for lack of utility, because, without the first section of the guide including the down-presser, which is omitted from said claims, the apparatus is inefficient and impractical. Claims 3, 4, and 5 are also void, because they cover only aggregations of machines operating successively and independently of each other and do not embody patentable combinations. I hold claims 6, 7 and 8 to be valid to the extent above indicated.

By a preponderance of the evidence it has been proved that the defendant adopted and put into use in its mill, apparatus for manufacturing weather-

boards, including the two part guide described in the complainant's patent, but either because of defective construction by reason of which the apparatus did not work satisfactorily, or to avoid infringement, a different form of down-presser was added. The defendant's down-presser is an adaptation of the lever and fulcrum principle. In form it resembles a human foot attached by a pivot pin at the ankle joint to a stanchion, with the heel part toward the planing machine and elevated so as to permit the boards to pass under it, the toe part acting as the down-presser—the power of the lever is effectuated by a suspended weight attached to the heel by a cord looped over an overhead pulley to raise the heel so that the weight presses the toe down and the inclined position of the foot permits the [91] boards to pass under it and, when shoved beyond the toe, to tip and fall from the under-support through the open space between it and the side wall of the chute, down upon the lateral carrier. This form of down-presser is not an exact equivalent for the flat top-piece of the guide described in the complainant's patent because it does not exert continuous pressure upon the traveling boards as they pass through the planing-machine, and is not so well adapted for use in operating upon short pieces and without requiring special adjustment it will act upon boards of varying thickness. The evidence proves that after adding the new down-presser to the apparatus in the defendant's mill, the flat top-piece of the guide was removed, it being superfluous; and it is the opinion of the Court that, when that was

done, the apparatus was so changed as to avoid infringement of complainant's patent.

By the decree to be entered the defendant will be enjoined from again infringing claims 6, 7 and 8 of the complainant's patent by the construction or use of sawmill apparatus, including the two-part guide, and a judgment for nominal damages for past infringement is awarded with costs. The evidence submitted does not afford a basis for estimating damages; therefore only nominal damages can be awarded.

The City of Seattle v. McNamara, 81 Fed. Rep. 863.

C. H. HANFORD,
United States District Judge.

[Endorsed]: Opinion. Filed in the U. S. District Court, Western Dist. of Washington. Jan. 15, 1912. A. W. Engle, Clerk. [92]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Interlocutory Decree.

This cause having been brought on for final hearing upon the pleadings and proofs on the 18th day of September, A. D. 1911, J. W. Kindall and Dorr & Hadley appearing for complainant, and Kerr & McCord appearing for defendant, and counsel for the respective parties having been heard, and the cause having been considered by the Court and a written opinion filed herein on the 15th day of January, A. D. 1912, and thereafter, complainant having filed his petition for a modification of the said written opinion of the Court, with respect to the question of damages, and praying for an accounting and for an order of reference for the purpose of a hearing thereon, which petition has by the Court been granted, and the Court now being fully advised, and in consideration of the premises;

It is hereby adjudged and decreed as follows:

That those certain United States letters patent, issued to George W. Loggie of Bellingham, Washington, the complainant herein, under date of November 27, 1906, and being numbered 837,087, for improvement of Receiving-Trip and Conveyor, are void as to claims numbered one (1), two (2), three (3), four (4), and five (5) thereof; and that said letters patent are good and valid, as respects claims six (6), seven (7) and eight (8) thereof, which said three last-mentioned and valid claims are specifically described in said letters patent as follows, to wit: [93]

CLAIM No. 6:

"The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep side guides registering with the side guides on said planer-bed; and a narrow, bottom guide or ledge attached to one of said deep side guides and registering with said channel-bottom."

CLAIM NO. 7:

"The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep side guides registering with the side guides on said planer bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel-bottom; slotted spreaders attached to said deep side guides; and supporting-hangers also attached to said deep side guides."

CLAIM NO. 8:

"The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer

has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep side guides, registering with the side guides on said planer-bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel-bottom; slotted spreaders attached to said deep side guides; and supporting-hangers also attached to said deep side guides, one set of said hangers is attached overhead in a hinge-joint parallel with said guides and the other set is rigidly attached overhead."

That the said complainant, the said George W. Loggie, was the first, true and original inventor of the invention and improvement described and claimed in said letters patent, and particularly recited in the said sixth, seventh and eighth claims thereof.

That ever since the issuance of said letters patent, the said complainant has been and now is the lawful owner thereof. [94]

That defendant has heretofore infringed upon said claims six (6), seven (7) and eight (8) by adopting, constructing and installing in its mill, apparatus for manufacturing weather-boards or cedar siding, including the two part guides or receiving-trips described in said claims of complainant's said letters patent.

It is further ordered, adjudged and decreed that that certain substitution adopted, constructed and installed by the defendant in its mill avoided in-

fringement of complainant's patent, which substitution is described as follows: A down-presser of the lever and fulcrum principle, resembling in form a human foot attached by a pivot pin at the ankle joint to a stanchion, with the heel part toward the planing-machine and elevated so as to permit the boards to pass under it, the toe part acting as the down-presser, the power of the lever being effectuated by a suspended weight attached to the heel by a cord looped over an overhead pulley to raise the heel so that the weight presses the toe down and the inclined position of the foot permits the boards to pass under it, and when shoved beyond the toe, to tip and fall from the under-support through the open space between it and the side wall of the chute, down upon the lateral carrier;

It is therefore further ordered, adjudged and decreed that the Puget Sound Mills & Timber Company, a corporation, defendant herein, its agents, servants and workmen, be, and they are perpetually enjoined for the remainder of the term of the life of said letters patent, from further infringing upon the said letters patent, and from manufacturing or using receiving-trips or conveyors, or any device, containing or embodying the inventions substantially as embraced and described in claims numbered six (6) seven (7) and eight (8), or either of them, [95] in said letters patent numbered 837,-087.

That the complainant do recover of the defendant the profits, gains and advantages which the said defendant has derived, received, made or saved since

the 27th day of November, 1906, by reason of said infringement of said sixth, seventh and eighth claims of said letters patent, or any of them, and that complainant do recover from defendant his costs, charges and disbursements in this suit to be taxed, all of which is finally adjudged and decreed.

And it is further adjudged and deereed that an accounting is hereby ordered, and this cause is hereby referred to Honorable Roger S. Greene, as Master in Chancery of this Court, who is hereby appointed *pro hac vice*, to take and state the account of said profits, gains and advantages, and to assess such damages, and to report thereon, with all convenient speed; and the defendant, its directors, trustees, officers, attorneys, clerks, servants and workmen, are hereby directed and required to attend before said Master from time to time as required, and to produce before him such books, papers, vouchers and documents, and to submit to such oral examination as the Master may require.

And that the amount of dainages to be recovered and all further questions be reserved until the coming in of the Master's report.

Done in open court this 29th day of January, 1913.

EDWARD E. CUSHMAN,
Judge.

[Endorsed]: Interlocutory Decree. Filed in the U. S. District Court, Western Dist. of Washington. Jan. 30, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy. [96]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Petition [of Puget Sound M. & T. Co.] for Appeal.

The above-named defendant, Puget Sound Mills & Timber Company, a corporation, feeling itself aggrieved by the decree entered against it on the 30th day of January, 1913, in the above-entitled action, comes now by its attorneys and petitions this Court for an order allowing it to prosecute an appeal to the Honorable Circuit Court of Appeals for the 9th Circuit under and in accordance with the laws of the United States in that behalf made and provided, and that an order be made fixing the amount of security which the defendant shall give and furnish upon said appeal, conditioned as required by law as in cases where supersedeas and stay of execution are desired, and that upon giving such security, all further proceedings in the above-entitled court be suspended and stayed until the determination of said appeal by the United States Circuit Court of

Appeals for the 9th Circuit, and your petitioner will ever pray.

KERR & McCORD,
Attorneys for Defendant.

Service of the foregoing Petition for Appeal is hereby received this the 27th day of February, 1913.

DORR & HADLEY,
J. W. KINDALL,
Attorneys for Complainant.

[Endorsed]: Petition for Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [97]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Petition [of George W. Loggie] for Appeal.

The above-named complainant, conceiving himself aggrieved by the interlocutory order and decree made and entered on the 30th day of January, 1913, in the above-entitled cause, does hereby appeal from

said interlocutory order and decree to the United States Circuit Court of Appeals for the 9th Circuit, for the reasons specified in the Assignment of Errors which is filed herewith, and he prays that this appeal may be allowed, and that a transcript of the record, proceedings and papers upon which said interlocutory order and decree was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the 9th District.

Dated at Seattle, Washington, this 27th day of February, 1913.

DORR & HADLEY,
J. W. KINDALL,

Solicitors for Complainant.

Copy of the within petition for Appeal recd. this 27th day of Feb., 1913.

KERR & McCORD,
Atty. for Deft.

[Endorsed]: Petition for Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [98]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Assignment of Errors [on Appeal of Puget Sound
Mills & Timber Co.].**

Comes now the Puget Sound Mills & Timber Company, a corporation, defendant in the above-entitled cause, and files the following assignments of error upon which it will rely upon the prosecution of its appeal of the above-entitled cause from that decree made and entered in said cause on the 30th day of January, 1913.

I.

The Court erred in decreeing that claim six (6) of the letters patent, which said claim is as follows, to wit:

“CLAIM No. 6:

“The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood-planer, the bed of which planer has a channel composed of a bottom and side guides; the receiving-trip comprising a top

guide attached to one of said planer-bed side guides and extending over said channel-bottom; two deep side guides registering with the side guides on said planer-bed; and a narrow bottom guide or ledge attached to one of said deep side guides and registering with said channel bottom." and is involved in the above-entitled action, was valid for the following reasons: [99]

1. The said claim is void for want of novelty.
2. The said claim is void for want of invention.
3. The said claim is void on account of vagueness, indefiniteness and ambiguity of the letters patent.
4. The said claim is void on account of anticipation by letters patent of the United States No. 685,467 issued to P. Boyd October 28th, 1901, No. 299,832 issued to W. H. Moore June 3, 1884, No. 721,006 issued to T. J. Bray, Jr., February 17, 1903, as well as other devices not patented.
5. The said claim is void on account of having been in use for more than two years prior to the taking out of letters patent, of which the said claim is a part.
6. Said claim is void because of the description not being sufficiently clear.
7. Said claim is void for the reason that it is not based upon the specifications relating to the claims of the letters patent.
8. The said claim is void for the reasons that the letters patent are granted for the improvements on trips and conveyors and contain nothing to show in what said improvement consists, the said claim

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being a combination.

9. Said claim is void for the reason that it is not a combination but an aggregation.

10. The said claim is void for the reason that the patentee is not the inventor.

II.

The Court erred in decreeing that claim seven (7) of the letters patent, which said claim is as follows, to wit:

"CLAIM NO. 7:

"The combination with a planer of a receiving-trip which is designed to receive the stuff as it comes from [100] a wood-planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer bed side guides on said planer *bed*; a narrow bottom guide two deep side guides registering with the side guides on said planer bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel-bottom; slotted spreaders attached to said deep side guides; and supporting hangers also attached to said deep side guides."

and is involved in the above-entitled action, was valid for the following reasons:

1. The said claim is void for want of novelty.
2. The said claim is void for want of invention.
3. The said claim is void on account of vagueness, indefiniteness and ambiguity of the letters patent.
4. The said claim is void on account of anticipation by letters patent of the United States No. 685,-

467 issued to P. Boyd October 28, 1901, No. 299,832 issued to W. H. Moore June 3, 1884, No. 721,006 issued to T. J. Bray, Jr., February 17, 1903, as well as other devices not patented.

5. The said claim is void on account of having been in use for more than two years prior to the taking out of letters patent, of which the said claim is a part.

6. Said claim is void because of the description not being sufficiently clear.

7. Said claim is void for the reason that it is not based upon the specifications relating to the claims of the letters patent.

8. The said claim is void for the reasons that the letters patent are granted for the improvement on trips and conveyors and contain nothing to show in what said improvement consists, the said claim being a combination.

9. Said claim is void for the reason that it is not a combination but an aggregation. [101]

10. The said claim is void for the reason that the patentee is not the inventor.

III.

The Court erred in decreeing that claim eight (8) of the letters patent, which said claim is as follows, to wit:

“CLAIM NO. 8:

“The combination with a planer of a receiving-trip which is designed to receive the stuff as it comes from a wood planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide

attached to one of said planer-bed side guides and extending over said channel bottom; two deep side guides registering with the side guides on said planer bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel bottom; slotted spreaders attached to said deep side guides; and supporting hangers also attached to said deep side guides; one set of said hangers is attached overhead in a hinge joint parallel with said guides and the other set is rigidly attached overhead."

and is involved in the above-entitled action, was valid for the following reasons:

1. The said claim is void for want of novelty.
2. The said claim is void for want of invention.
3. The said claim is void on account of vagueness, indefiniteness and ambiguity of the letters patent.
4. The said claim is void on account of anticipation by letters patent of the United States, No. 685,-467, issued to P. Boyd October 28, 1901, No. 299,832 issued to W. H. Moore June 3, 1884, No. 721,006 issued to T. J. Bray, Jr., February 17, 1903, as well as other devices not patented.
5. The said claim is void on account of having been in use for more than two years prior to the taking out of letters patent, of which the said claim is a part.
6. Said claim is void because of the description not being sufficiently clear.
7. Said claim is void for the reason that it is not [102] based upon the specifications relating to the claims of the letters patent.

8. The said claim is void for the reasons that the letters patent are granted for the improvement on trips and conveyors and contain nothing to show in what said improvement consists, the said claim being a combination.

9. Said claim is void for the reason that it is not a combination but an aggregation.

10. The said claim is void for the reason that the patentee is not the inventor.

IV.

The Court erred in entering a decree out of accordance with the decision theretofore rendered, which said decision was to the effect that the only monopoly to which the patentee was entitled was limited to the two-part guide constructed according to the specifications of the letters patent in combination with the planing machine and the transverse conveyor, and the decree in no wise so limits claims 6, 7 and 8.

Wherefore, the said defendant and appellant prays that the judgment of the said trial Court be reversed and that the said District Court of the United States for the Western District of Washington, Northern Division, be directed to enter a judgment in favor of the defendant.

KERR & McCORD,
Attys. for Defendant.

Service of the foregoing Assignments of Error is hereby accepted on this the 27th day of February, 1913.

DORR & HADLEY,
J. W. KINDALL,
Attorneys for Complainant. [103]

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[Endorsed]: Assignments of Error. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [104]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Assignment of Errors [on Appeal of George W. Loggie].

Now comes the complainant in the above-entitled cause, and files with his petition for appeal from the interlocutory order and decree, heretofore entered herein, these his assignments of error:

1. That the Court erred in finding that Claim 1 of complainant's patent No. 837,087 is invalid.
2. That the Court erred in finding that Claim 2 of said patent is invalid.
3. That the Court erred in finding that Claim 3 of said patent is invalid.
4. That the Court erred in finding that Claim 4 of said patent is invalid.
5. That the Court erred in finding that Claim 5

of said patent is invalid.

6. That the Court erred in holding, as set out in that portion of said decree, reading as follows, to wit:

"It is further ordered, adjudged and decreed that that certain substitution adopted, constructed and installed by the defendant in its mill avoided infringement of complainant's patent, which substitution is described as follows: A down-presser of the lever and fulcrum, resembling in form a human foot attached by a pivot pin at the ankle joint to a stanchion, with the heel part toward the planing machine and elevated so as to permit the boards to pass under it, the toe part acting as the down-presser, the power of the lever being effectuated by a suspended weight attached to the heel by a cord looped over an overhead pulley to raise the heel so that the weight presses the toe down and the inclined position of the foot permits the boards to pass under [105] it and, when shoved beyond the toe, to tip and fall from the under-support through the open space between it and the side wall of the chute, down upon the lateral carrier."

7. That the Court erred in refusing to grant, and in not granting in said interlocutory decree, an injunction in favor of complainant and against defendant, enjoining further infringement of Claim 1 of said patent.

8. That the Court erred in refusing to grant, and in not granting in said interlocutory decree, an injunction in favor of complainant and against de-

fendant, enjoining further infringement of Claim 2 of said patent.

9. That the Court erred in refusing to grant, and in not granting in said interlocutory decree, an injunction in favor of complainant and against defendant, enjoining further infringement of Claim 3 of said patent.

10. That the Court erred in refusing to grant, and in not granting in said interlocutory decree, an injunction in favor of complainant and against defendant, enjoining further infringement of Claim 4 of said patent.

11. That the Court erred in refusing to grant, and in not granting in said interlocutory decree, an injunction in favor of complainant and against defendant, enjoining further infringement of Claim 5 of said patent.

WHEREFORE, this appellant, George W. Loggie, prays that the said interlocutory order and decree of the District Court of the United States for the Western District of Washington, Northern Division, may be reversed by this Honorable Court in respect to the matters herein appealed, and that the said Circuit Court may be directed by the mandate of this Court to enter a decree for an injunction and account, under Claims 1 to 5, inclusive, and each thereof, of the patent No. 837,087, with [106] costs to appellant herein and complainant below.

DORR & HADLEY,

J. W. KINDALL,

Solicitors for Appellant.

Service of copy of the foregoing Assignment of Errors admitted this 27th day of February, 1913.

KERR & McCORD,

Solicitors for Appellee.

[Endorsed]: Assignment of Errors. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [107]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Bond [on Appeal of Puget Sound Mills & Timber Co.].

KNOW ALL MEN BY THESE PRESENTS: That we, Puget Sound Mills & Timber Company, a corporation, as principal, and American Surety Company of New York, a corporation, as surety, are held and firmly bound unto George W. Loggie, plaintiff above named, in the sum of Five Hundred (\$500.00) Dollars, to be paid to the said George W. Loggie, his executors, administrators and assigns, to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally,

and our and each of our successors, representatives and assigns, firmly by these presents.

Sealed with our seals and dated this the 27th day of February, 1912.

The conditions of the above obligations are such that—

Whereas the defendant above named has appealed to the United States Circuit Court of Appeals for the Ninth Circuit to reverse the decree made and entered in the above-entitled cause on the 30th day of January, 1913, in the above-named court, and to dissolve the injunction therein granted, which said decree was in favor of the plaintiff and against the defendant, and commanded the said defendant to account for certain profits therein mentioned:

Now, therefore, if the above-named defendant shall prosecute said appeal to effect and answer all the costs and damages, if it shall fail to make good its plea, then this obligation shall be [108] void, otherwise to be and remain in full force, virtue and effect.

Witness our seals and names hereto affixed the day and year first above mentioned.

PUGET SOUND MILLS & TIMBER COMPANY.

By KERR & McCORD,

Its Attorneys.

AMERICAN SURETY COMPANY OF
NEW YORK.

[Seal] By EDWARD J. LYONS,

Resident Vice-President.

S. H. MELROSE,

Resident Assistant Secretary.

Service of the foregoing Bond is hereby accepted this the 27th day of February, 1913.

DORR & HADLEY,
J. W. KINDALL,

Attorneys for Plaintiff.

The above and foregoing Appeal and Supersedeas Bond is hereby approved on this the 27th day of February, 1913.

EDWARD E. CUSHMAN,
Judge.

[Endorsed]: Supersedeas Bond. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [109]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Bond on Appeal [of George W. Loggie].

KNOW ALL MEN BY THESE PRESENTS, that we, George W. Loggie, as principal, and Massachusetts Bonding and Insurance Company, as surety, are held and firmly bound unto Puget Sound Mills

& Timber Company in the full and just sum of \$250.00, to be paid to said Puget Sound Mills & Timber Company, its successors or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

Sealed with our seals, and dated this 27th day of February in the year of our Lord, 1913.

Whereas, on January 30, 1913, in the District Court of the United States for the Western District of Washington, Northern Division, in a suit pending in said court between George W. Loggie, complainant, and Puget Sound Mills & Timber Company, defendant, an interlocutory order and decree was rendered in part against said George W. Loggie, and the said George W. Loggie has obtained an order of said Court allowing an appeal to reverse said interlocutory order and decree, and a Citation directed to the said Puget Sound Mills & Timber Company for its appearance in the United States Circuit Court of Appeals for the 9th Circuit, at San Francisco, California, thirty days from and after the date of said Citation. [110]

Now, the condition of the above obligation is such, that if the said George W. Loggie shall prosecute said appeal to effect, and answer all damages and costs, if he fail to make good his plea, then this obli-

gation to be void; otherwise to remain in full force and virtue.

GEORGE W. LOGGIE,

By J. W. KINDALL,

His Attorney.

MASSACHUSETTS BONDING AND INSURANCE COMPANY.

By F. B. POTWIN,

Surety.

By JOHN J. JAMISON, [Seal]

Attorney in Fact.

The foregoing bond is hereby approved, this 27th day of February, 1913.

EDWARD E. CUSHMAN,

Judge.

Service of the foregoing bond is hereby admitted Feb. 27, 1913.

KERR & McCORD,

Attorneys for Defendant.

[Endorsed]: Appeal Bond. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [111]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Order Allowing Appeal of Defendant and Fixing
Amount of Supersedeas Bond.**

The defendant having this date filed its petition for an appeal from the judgment made and entered herein on the 30th day of January, 1913, to the United States Circuit Court of Appeals for the 9th Circuit, together with an assignment of errors, all in due time, and praying that an order be made fixing the amount of security which defendant shall furnish on said appeal, and that upon the giving of such security all proceedings in this Court be stayed, pending the determination of said appeal:

It is hereby ordered, that an appeal is hereby allowed to have said judgment reviewed in the United States Circuit Court of Appeals for the 9th Circuit; and

It is further ordered, that upon the Puget Sound Mills & Timber Company, a corporation, filing with the Clerk of this Court a good and sufficient bond

in the sum of Five Hundred Dollars, to the effect that if the said defendant, Puget Sound Mills & Timber Company shall prosecute the said appeal to effect and answer all damages and costs if it fails to make its plea good, then the said obligation to be void; otherwise to remain in full force and effect. Said bond to be approved by the Court, and all further proceedings in this Court, including the operation of the injunction, be, and they are hereby, suspended and stayed until the determination of the said appeal by the Honorable United States Circuit Court of Appeals for the 9th [112] Circuit.

Dated at Seattle, Washington, this the 27th day of February, 1913.

EDWARD E. CUSHMAN,
Judge.

Service of the foregoing order allowing appeal and fixing amount of supersedeas bond is hereby accepted this the 27th day of February, 1913.

DORR & HADLEY,
J. W. KINDALL,
Attorneys for Complainant.

[Endorsed]: Order Allowing Appeal and Fixing Amount of Supersedeas Bond. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [113]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Order Allowing Appeal [of Complainant, and Fixing
Amount of Bond].**

Now, on this day, comes said complainant, by his solicitors herein, and files and presents to the Court his assignment of errors and petition for appeal from the interlocutory order and decree heretofore rendered herein, to the United States Circuit Court of Appeals for the 9th Circuit; upon due consideration whereof the Court doth order that said appeal be, and the same is hereby, granted as prayed, and that the amount of the appeal bond be given for costs to be fixed at \$250.00; and now said complainant presents such a bond, conditioned as required by law, which is approved by the Court and filed, and a Citation citing and admonishing said defendant to be and appear at and before said Court of Appeals within thirty days from this date, and signed by the Judge; and it is further ordered that the Clerk of

this Court make out and certify to said Court of Appeals a full, true and complete transcript of the record and proceedings in this cause.

Dated February 27, 1913.

EDWARD E. CUSHMAN,
Judge.

Receipt copy of within Order Allowing Appeal on
this the 27th Feb., 1913.

KERR & McCORD,
Attys. for Deft. [114]

[Endorsed]: Order Allowing Appeal. Filed in
the U. S. District Court, Western Dist. of Washing-
ton. Feb. 27, 1913. Frank L. Crosby, Clerk. By
Ed. M. Lakin, Deputy. [115]

**[Order Extending Time to February 27, 1913, to File
Bill of Exceptions.]**

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

It appearing to the Court that a stipulation has
been entered into by and between the parties hereto

extending the time within which the Bill of Exceptions may be filed until the 27th day of February, 1913;

It is now by the Court ordered that the time within which the Bill of Exceptions in the above-entitled cause may be filed be, and the same is hereby, extended up to and including the 27th day of February, 1913.

Done in open court this 27th day of February, 1913.

EDWARD E. CUSHMAN,
Judge.

O. K.

D. & H.

J. W. K.

[Endorsed]: Order. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.
[116]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Order Extending Time [to March 31, 1913] for Filing of Bill of Exceptions.

On the stipulation of the solicitors for the respective parties hereto, and for the reason that the interlocutory order and decree heretofore entered herein was signed by the undersigned Judge of this court in chambers at a time when none of the solicitors were present:

It is ordered that the time for the complainant and his solicitors herein to file Bill of Exceptions herein on his appeal from the said interlocutory order and decree be, and the same is hereby, extended to and including March 31, 1913.

Dated this 27th day of February, 1913.

EDWARD E. CUSHMAN.

O. K.

KERR & McCORD,
Solicitors for Defendant.

[Endorsed]: Order Extending Time for Filing Bill of Exceptions. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

[117]

[Complainant's Exhibit "B"—Notice, Dated January 23, 1907—George W. Loggie to Puget Sound M. & T. Co.]

WHATCOM FALLS MILL CO.,

BELLINGHAM, WASHINGTON.

Bellingham, Wash., Jany. 23, 1907.

Puget Sound Mills & Timber Co.,

South Bellingham, Wash.

Gentlemen:

The undersigned having a Patent No. 837,087 on a Trip and Conveyor for use behind Planers, or similar machines, and which I understand you are using, desires to notify you that you must discontinue its use, unless arrangement is made with the undersigned patentee.

Yours very truly,
GEO. W. LOGGIE.

[Endorsed]: Complainant's Exhibit "B." Filed May 20, 1909. Peter A. Kimple, Notary Public in and for the State of Washington, Residing at Seattle. [118]

[Plaintiff's Exhibit "A"—Drawings and Specification of Letters Patent No. 837,087, to G. W. Loggie, Patented November 27, 1906.]

[Letters Patent of G. W. Loggie, No. 837,087—Patented November 27, 1906—See page 12.]

[Plaintiff's Exhibit "H"—Specification of Invention
by George W. Loggie.]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

SPECIFICATION.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, George W. Loggie, a citizen of the United States and a resident of Bellingham in the County of Whatcom and State of Washington have invented certain new and useful Improvements in Receiving-Trips and Conveyors of which the following is a specification:

My invention relates to an improvement in Conveyors for transmitting pieces of lumber from one machine to another during the process of manufacture; and also to an improved Receiving-Trip by which said pieces of lumber may be properly deposited on said conveyors.

The object of my invention is three-fold: To reduce the amount of floor space required in which to conduct the several processes of manufacture. To diminish the number of machines required for said processes. And to diminish the number of men required to carry forward said work.

The application of my invention to the manufacturer of bevel siding is illustrated in the accompanying two sheets of drawings in which similar characters refer to similar parts throughout the several views. (Insert A1.) Fig. 3 is a side elevation of

Fig. 1. Fig. 4 is an end elevation of Fig. 2, and Fig. 5 is a side elevation of Fig. 2.

In Fig's 1 and 3, A and B are portions of the rear ends of the two wood planers. (Sept. 4, '06, per A.)

[123]

Projecting longitudinally from the rear of each of these planers is a receiving-trip which receives each finished board as it comes from the planer and retains it until it has passed entirely beyond the planer bed-plate when it is allowed to drop. Beneath these trips are a number of pulleys which move a series of belts transversely behind the planers forming a lateral conveyor. On this conveyor the boards fall from the trips, and are transferred by it to a receptacle lying parallel with, to the rear, and to one side of said planers.

The combination of a battery of planers or similar woodworking machines; a receiving-trip extending longitudinally from the rear of each of said machines; a lateral conveyor located at the rear of said machines and beneath said trips; a receptacle at the delivery end of said conveyor; a machine, or machines to complete the second stage in the process of manufacture located near one end of said receptacle and in file line with said battery of planers; a machine, or machines, to complete the third stage in the process of manufacture located by the said *of said* last-named machines and in file line with said battery of planers; and a longitudinal conveyor the receiving end of which is located alongside of and below said last-mentioned machine, or between said last-mentioned machines, and the delivery end

of which is located above a table.

The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood planer, the bed of which planer has a channel composed of a bottom and side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel bottom; two deep side guides registering with the side guides on said planer-bed; and a narrow, bottom guide or ledge attached [124] to one of said deep side guides and registering with said channel bottom.

The combination with a planer of a receiving-trip, which is designed to receive the stuff as it comes from a wood planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and extending over said channel bottom; two deep side guides registering with the side guides on said planer-bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel bottom; slotted spreaders attached to said deep side guides; and supporting hangers also attached to said deep side guides.

In a transverse conveyor the combination of horizontal parallel shafts; suitable bearings and supports for said shafts; suitable means for supplying a torsional effort to one of said shafts; a number of wheels fixed to each of said shafts, said wheels are regularly spaced and so placed that one wheel on each shaft is in line with a wheel on each of the

other of said shafts forming a set; a belt, chain or similar vehicle on each of said sets of wheels; a supporting board beneath the upper part of each of said vehicles; and belt guards at the delivery end of said conveyor;

In a transverse conveyor the combination of horizontal, parallel shafts; suitable bearings and supports for said shafts; suitable means for supplying a torsional effort to one of said shafts; a number of wheels fixed to each of said shafts, said wheels are regularly spaced and so placed that one wheel on each shaft is in line with one wheel on each of the other of said shafts forming a set; a belt, chain or similar vehicle on each of said sets of wheels; a supporting board beneath the [125] upper part of each of said vehicles; belt guards at the delivery end of said conveyor; and a receptacle at said delivery end.

In a transverse conveyor the combination of two parallel horizontal shafts; bearings for the same; a supporting frame to which said bearings are attached; a number of wheels attached to said shafts, said wheels being regularly spaced so that each wheel on one shaft may pair with a wheel on the other shaft; a belt, chain, or similar vehicle over each of said pairs of wheels; a supporting board beneath the upper side of each of said vehicles; slats between each of said supporting boards; a framework below said supporting boards and said slats to which they are attached; belt guards, as described, properly secured at the delivery end of said conveyor; a space, platform or receptacle at said de-

livery end; a driving pulley fixed on one of said shafts, and a *driving pulley fixed on one of said shafts; and a driving belt on the said pulley.*

In a longitudinal conveyor the combination of two horizontal shafts; bearings and supports for the same; a wheel on each shaft and fixed to the same; a belt, chain or similar vehicle on said wheels; a supporting board beneath the upper side of said vehicle; deep side-guides attached to said supporting board and extending above the upper side of said vehicle; an inclined apron at the receiving end of said conveyor one end of which is attached between said side guides; and a driving pulley on one of said shafts with a driving belt on the same.

In a longitudinal conveyor the combination of two horizontal shafts; bearings and supports for the same; a wheel on each shaft and fixed to the same; a belt, chain or similar vehicle on said wheels; a supporting board beneath the upper side of said vehicle; deep side-guides attached to said supporting [126] board and extending above the upper side of said vehicle; an inclined apron at the receiving end of said conveyor one end of which is attached between said side guides; a driving pulley on one of said shafts with a driving belt on the same; and an inclined table below the delivery end of said conveyor.

The combination with a planer of the receiving-trip, which is designed to receive the stuff as it comes from a wood planer, the bed of which planer has a channel composed of a bottom and two side guides; the receiving-trip comprising a top guide attached to one of said planer-bed side guides and ex-

tending over said channel bottom; two deep side guides registering with the side guides on said planer bed; a narrow bottom guide or ledge attached to one of said side guides and registering with said channel bottom; slotted spreaders attached to said deep side guides; and supporting hangers also attached to said deep side guides, one set of said hangers is attached over head in a hinge joint parallel with said guides and the other set is rigidly attached over head.

[Endorsed]: The foregoing is a part of Plaintiff's Exhibit "H" filed June 27, 1910, being pages one, two, ten, eleven and twelve and thirteen. [127]

[Communication, Dated August 14, 1906, from Examiner to G. W. Loggie.]

DEPARTMENT OF THE INTERIOR.
UNITED STATES PATENT OFFICE,
WASHINGTON, D. C.

C. T. N.

Aug. 14, 1906.

MAILED

" " "

George W. Loggie,
Care David E. Lain,
Bellingham, Whatcom Co.,
Washington.

PLEASE FIND BELOW A COMMUNICATION
FROM THE EXAMINER, IN CHARGE OF
YOUR APPLICATON for patent for Receiv-
ing Trips and Conveyors, filed June 16, 1906, No.
322,112.

F. I. ALLEN,
Commissioner of Patents.

The brief description of figures 1 and 2 on page 2 is insufficient, both of the plan views should be more clearly described.

The part C of figure 1 does not indicate a "re-saw" as stated and to so describe it is misleading and inaccurate. If a sawing mechanism is located at this point it should be properly shown.

On page 8, line 5 it is not understood what is meant by "house trim."

This application presents two distinct matters of invention, claims 8, 9, 10, 11 and 12 being to a specific construction of conveyor and the remaining claims being to the combination of a so-called receiving trip with a planer or a series of planers.

Conveyors have acquired a distinct status in the arts and industries and in the Office classification from planers or any arrangement of planers or wood-working machinery. Applicant is therefore required to elect between the matter of claims 8 to 12 and all the remaining claims and to confine the application to a single invention.

Claims 6, 7 and 13 are had in form, beginning with the phrase "In a receiving-trip" and then defining a matter of planing construction which is certainly not in the receiving-trip and also merely referring to the specific form of planer bed and channel and merely inferentially including it without positively including it. [128]

This could be remedied by canceling "In" in line 1 of claims 6, 7 and 13 and substituting the combination with a planer of and substituting for "combina-

tion of" line 3 of claim 6, and lines 3 and 4 of claims 7 and 13 the words receiving-trip comprising.

B. N. MORRIS,

WARD. Examiner Division 29. [129]

[Letter, Dated August 27, 1906—G. W. Loggie to
Commissioner of Patents.]

Serial No. 322,112—Paper No. 2

MAIL ROOM

SEP. 4, 1906.

U. S. PATENT OFFICE.

U. S. PATENT OFFICE,

Sep. 6, 1906

DIVISION XXIX.

Bellingham, Wash., Aug. 27, 1906.

Hon. Commissioner of Patents,

Washington, D. C.

Dear Sir:—

In the matter of my application for a patent for Receiving Trips and Conveyors filed June 16, 1906 No. 322,112 and in reply to Office letter dated Aug. 14, 1906 Petitioner submits the following:

Page 2, line 19 after "planers" add

These machines stand parallel with their rear ends in the same line.

Petitioner believes this amplification sufficient for this part of the specification as the parts of these machines directly connected with my improvement are more particularly described on p. 3 of specification, lines 14-20.

Enclosed please find a photographic copy of sheet 1 of drawings to be held by the Commissioner of

Patents while the drawing of re-saw C is amplified. Will the Hon. Commissioner please return said sheet of drawings to petitioner for this purpose?

"House trim" is a technical designation for interior house finishing material, but as it may be somewhat local, will the Examiner make the following amendment: Page 8 line 4 omit "finishing" Line 5 omit "manufacturing", "house trim and similar material." Line 5 put word finishing before lumber."

Examiner rules that this application presents two distinct matters of invention and requires applicant to divide the claims. Applicant respectfully holds, while the several parts of the improvement may be considered as being distinct in some sense, yet they [130] are so allied and interdependent as to comprise but one complete invention. In practice one re-saw will cut the output of three planers. The function of the "receiving-trip" is to retain a board as it comes from the planer in a horizontal position until it is entirely free of the planer and then drop it from said horizontal position on to the transverse conveyor beneath. The function of the conveyor is to transport the boards from a battery of such trips laterally and deposit them in a position in line with and in front of the re-saw. It is important that the boards when deposited in front of the re-saw may register at the ends nearest said re-saw in order that the man serving this machine may not be obliged to change his position on the floor and thus be free to devote his whole attention to feeding the machine. Now if

an ordinary trip were used to serve the boards to the conveyor, the distant ends of the boards would first come in contact with the conveyor and the stuff would then be caused to occupy an oblique position on said conveyor and be delivered by the same in an irregular and confused heap, thus failing to accomplish one of the important objects of this improvement. Therefore, the conveyor would be practically useless without a trip substantially as described. Furthermore, the trip as herein described has no great advantage over the ordinary and well known forms of this device except for delivering planed stuff to a conveyor substantially as described.

The longitudinal conveyor also is an important and allied part of the invention as it mechanically delivers the stuff as finished by the trimmers to the grading table with near ends registering.

Therefore, the several distinct parts of this invention are dependent upon each other and united contribute to produce a [131] single result, which is the conveying in a near and regular manner of the output of a battery of wood planers to and from the several finishing machines and finally delivering them in regular order on a grading table. The improvement is a unit in conception, installation and use, and applicant urges that it is well within the last clause of Rule 41, and respectfully requests that the Examiner reconsider his order for a division.

If the Office classification of conveyors is such as to leave no room for such a combination as described and named, possibly the Examiner may suggest a change of name which may bring the improvement

sufficiently within the Office classification and thus avoid the necessity of subjecting applicant to the hardship of dividing what is substantially a unit.

Claim 6, line 1, cancel "In" and substitute, The Combination with a planer of. Line 3 and 4 cancel, "the combination of" and substitute the semicolon and words; the receiving-trip comprising.

Claim 7, line 1, cancel "In" and substitute, The combination with a planer of. Lines 3 and 4 cancel, "the combination of" and substitute the semicolon and words; the receiving-trip comprising.

Claim 13, line 1, cancel "In" and substitute The combination with a planer of. Line 3 and 4 cancel "the combination of" and substitute the semicolon and words ; the receiving-trip comprising.

Claim 10, line 10, after "attached" cancel the coma and substitute a semicolon.

Yours Respectfully,
GEO. W. LOGGIE,
By his attorney,
DAVID E. LAIN. [132]

[Communication, Dated September 14, 1906, from
Examiner to G. W. Loggie.]

DEPARTMENT OF THE INTERIOR.

UNITED STATES PATENT OFFICE.

WASHINGTON, D. C.,

C. T. N.

Sept. 14, 1906.

MAILED " " "

George W. Loggie,
Care David E. Lain,
Bellingham, Whatcom Co.,
Washington.

PLEASE FIND BELOW A COMMUNICATION
FROM THE EXAMINER IN CHARGE OF
YOUR APPLICATION, for patent for Receiv-
ing Trips and Conveyors, filed June 16, 1906, No.
322,112.

F. I. ALLEN,
Commissioner of Patents.

In response to the amendment of Sept. 4, 1906:—
Previous criticism of the description of Figures
1 and 2 is repeated.

It is thought that figures 1 and 2 should be de-
scribed as follows: Figures 1 and 2 taken together
represent in plan view an arrangement of machines
embodying my invention.

Merely supplying a blue print, while a proper step
in preparation for further showing of the resaw C,
does not in itself meet the requirement for further
illustration. The drawing can not be returned for
this purpose but applicant should furnish a sketch of

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the proposed changes for the approval of the Examiner and then have the Office make the changes if satisfactory.

As to claims 8, 9, 10, 11, and 12 the previous requirement as to division must be repeated. These claims are purely for a conveyor. If applicant has made an invention of a conveyor, which so far as defined in these claims is clearly capable of use in other relations than those specified in the other claims, this is clearly a distinct invention from the matter of the other claims and can only be made the subject of a separate patent. The remaining claims involve improvements in wood working machines to which the detail character of the conveyor is utterly immaterial. Claims for the conveyor *per se* are obviously out of place with claims for wood working machine arrangements. [133]

It may be remarked that while the Examiner is not an expert in and has not at hand full information concerning the conveyor art he believes there is nothing patentable *per se* in the construction of the conveyor and as the construction in detail of the conveyor does not affect the combination presented in applicant's structure and covered in the other claims it is not seen how the claims could be redrawn so as to be included in the same application with the other claims.

This being a repetition of the requirement of division, appeal therefrom now lies.

B. N. MORRIS,
Examiner Division 29. [134]

WARD.

[Letter, Dated September 22, 1906—G. W. Loggie to
Commissioner of Patents.]

Serial No. 322,112—Paper No. 4.

A

MAIL ROOM

SEP. 28, 1906.

U. S. PATENT OFFICE.

U. S. PATENT OFFICE,

Oct. 10, 1906.

DIVISION XXIX.

Bellingham, Wash. September 22-1906.

Hon. Commissioner of Patents,

Washington, D. C.,

Dear Sir:—

In the matter of the application of Geo. W. Loggie for a patent for an improvement in receiving Trips and Conveyors files June 16th, 1906 Serial No. 322,112, and in reply to Office letter dated September 14th, 1906, applicant requests the following:

Strike out the amendments authorized in my letter of August 27th, 1906 to page 2, line 19 of specification, and add the following: Figs. 1 and 2

A1. : taken together represent in plan view an arrangement of machines embodying my invention.

Enclosed herewith I hand you sketch showing a desired amplification of a portion of Fig. 1 of the drawings in this application. If the suggested amendments to the drawing meets with approval, kindly have the addition made to my original draw-

160 *Puget Sound Mills & Timber Company*
ing, inform me of the expense of same, and I will
remit at once.

Strike out Claims 8, 9, 10, 11 and 12 and renumber
Claim 13 to be Claim No. 8.

Applicant's request for the reversal of Examiner's
ruling in the matter of a division is withdrawn.

Yours respectfully,
GEO. W. LOGGIE.

By his attorney,
DAVID E. LAIN. [135]

[Defendant's Exhibit No. 6—Drawings and Specification of Letters Patent No. 721,006, Dated February 17, 1903—Thomas J. Bray, Jr.]

PATENTED FEB. 17, 1903.

T. J. BRAY, JR.
TUBE HANDLING APPARATUS.

APPLICATION FILED SEPT. 2, 1902.

NO MODEL.

3 SHEETS—SHEET 1.

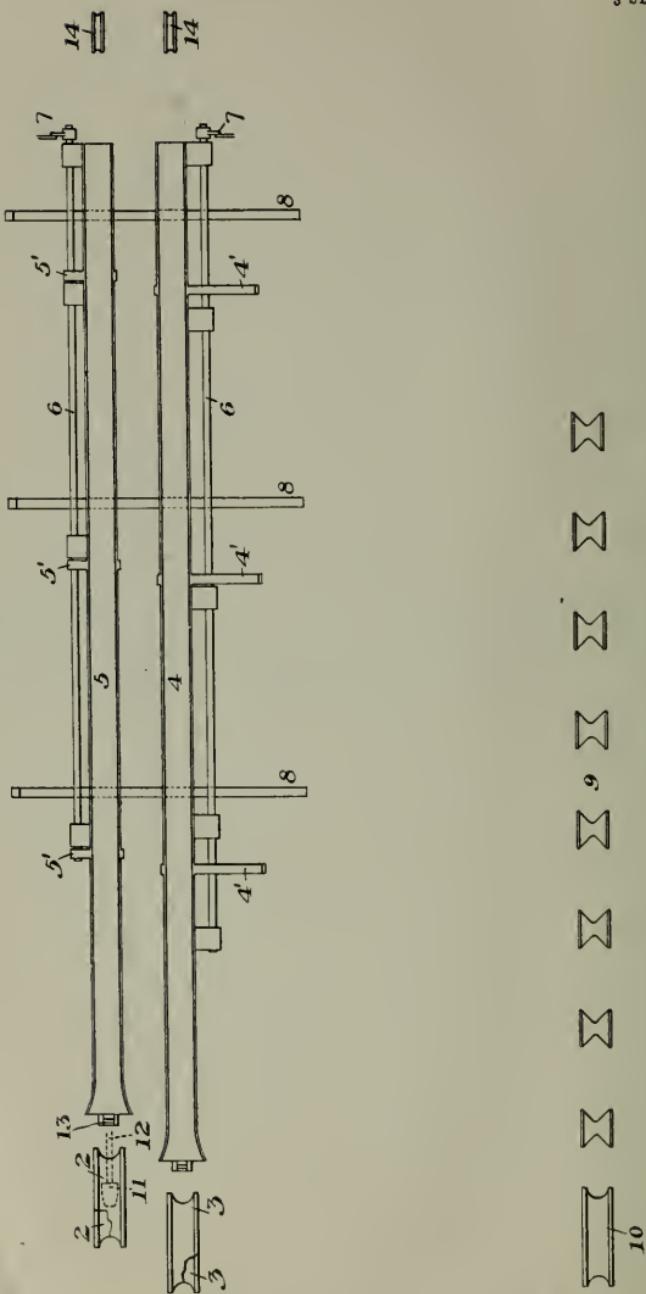


Fig. 1.

WITNESSES

Thomas W. Bassell
Warren W. Gwarty

INVENTOR

T. J. Bray Jr.

T. J. BRAY, JR.
 TUBE HANDLING APPARATUS.

APPLICATION FILED SEPT. 2, 1902.

NO MODEL.

3 SHEETS-SHEET 1

Fig. 3.

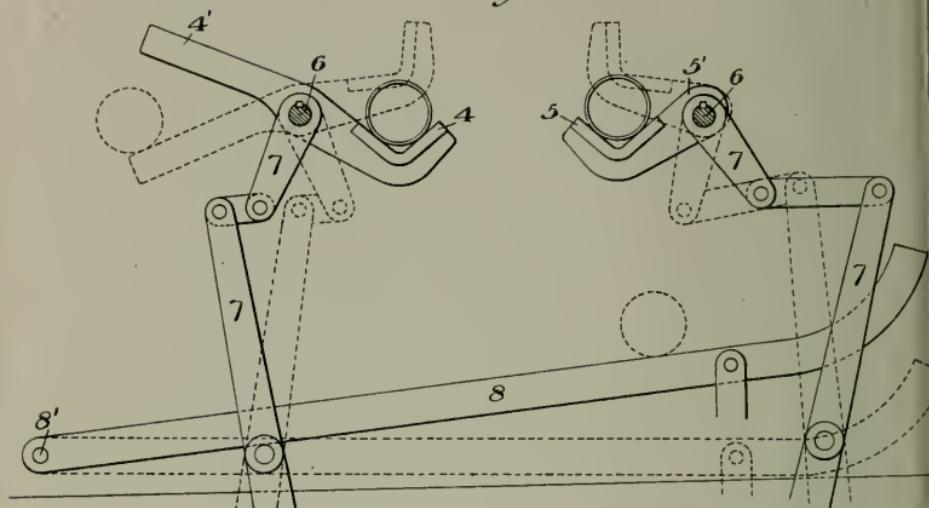
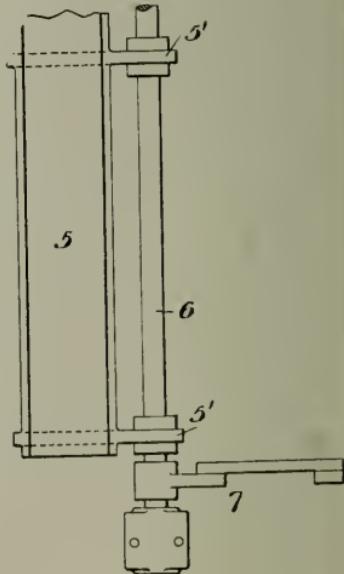
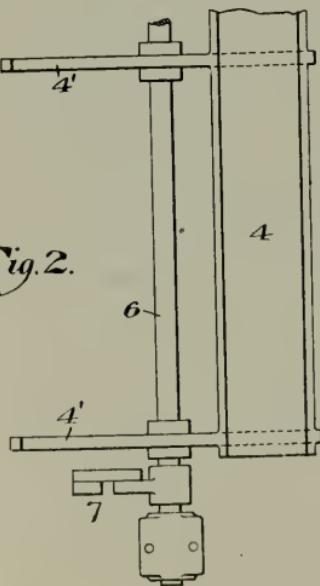


Fig. 2.



WITNESSES

Thomas W. Barnwell
 Warren W. Swartz

INVENTOR

T. J. Bray, Jr.

T. J. BRAY, JR.
TUBE HANDLING APPARATUS.

APPLICATION FILED SEPT. 2, 1902.

NO MODEL.

3 SHEETS—SHEET 2

Fig. 3.

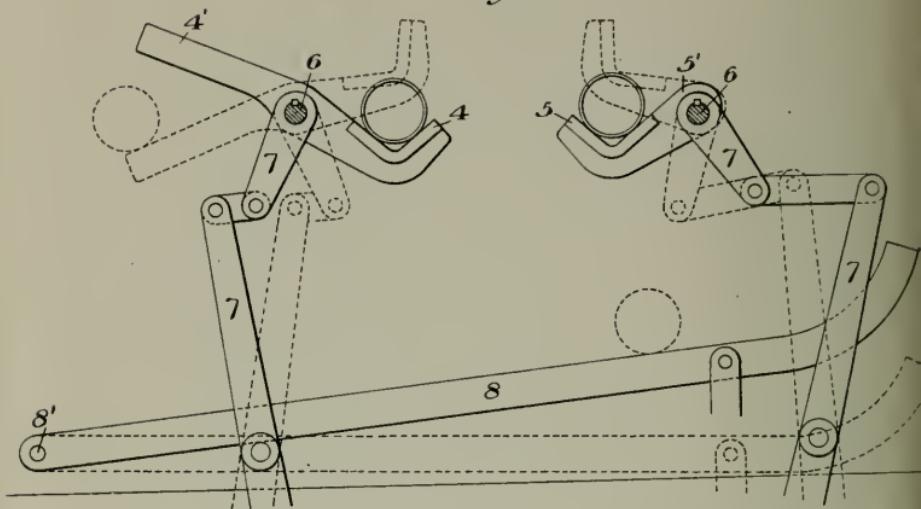
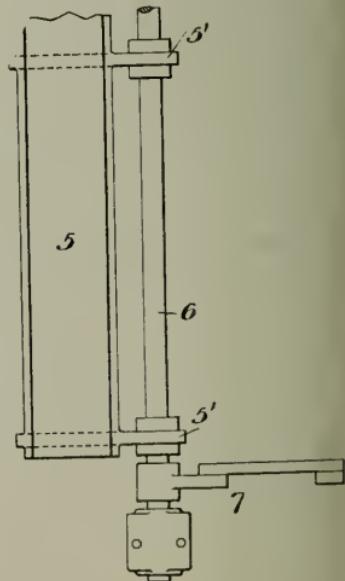
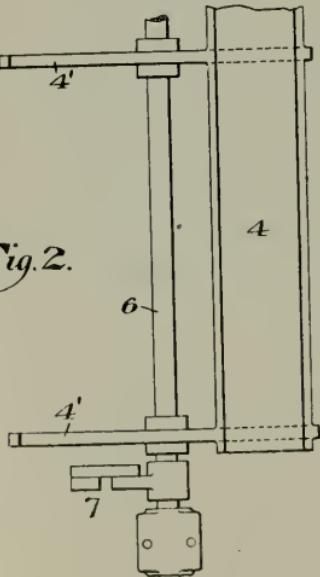


Fig. 2.



WITNESSES

Thomas W. Barnwell
Warren W. Gwartz

INVENTOR

T. J. Bray, Jr.

PATENTED FEB. 17, 1903.

T. J. BRAY, JR.
TUBE HANDLING APPARATUS.

APPLICATION FILED SEPT. 2, 1902.

NO MODEL.

3 SHEETS—SHEET 3.

Fig. 4.

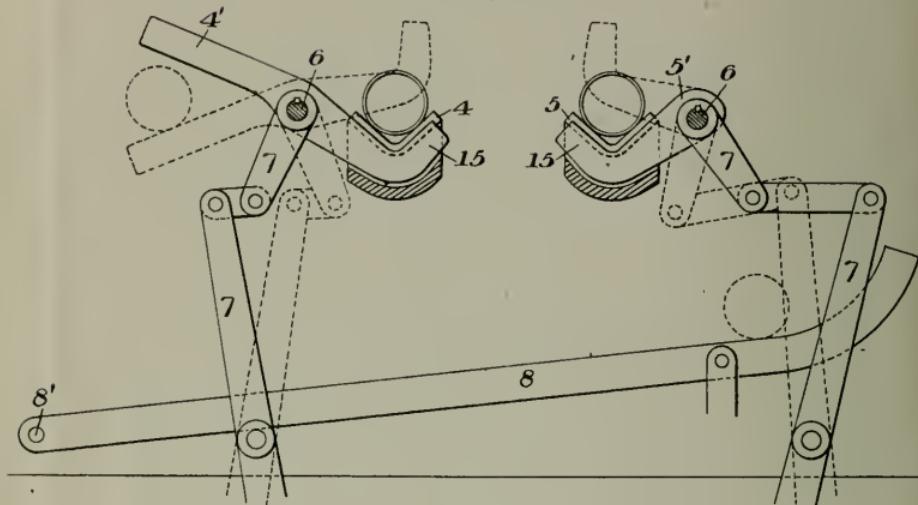
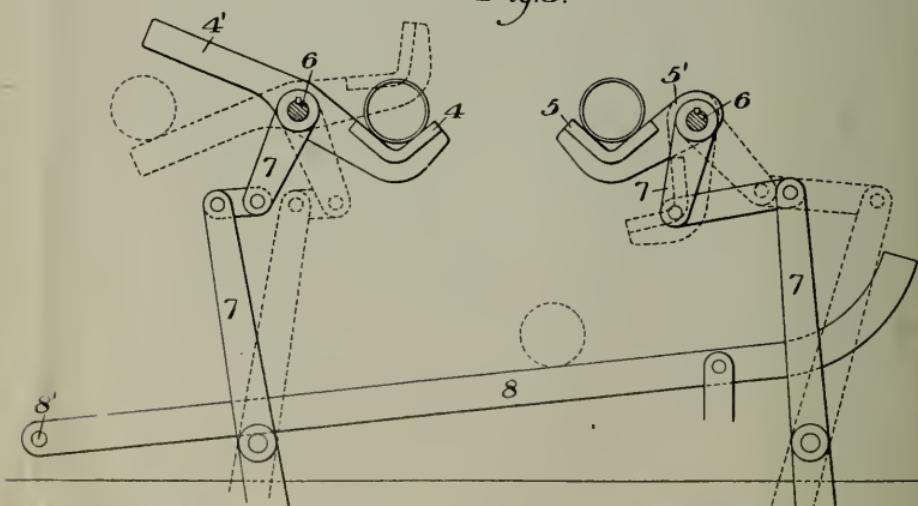


Fig. 5.



WITNESSES

Thomas W. Bassell
Warren W. Swartz

INVENTOR

T. J. Bray, Jr.

THOMAS J. BRAY, JR., OF PITTSBURG, PENNSYLVANIA.

TUBE-HANDLING APPARATUS.

SPECIFICATION forming part of Letters Patent No. 721,006, dated February 17, 1903.

Application filed September 2, 1902. Serial No. 121,815. (No model.)

To all whom it may concern:

Be it known that I, THOMAS J. BRAY, Jr., of Pittsburg, in the county of Allegheny and State of Pennsylvania, have invented a new and useful Tube-Handling Apparatus, of which the following is a full, clear, and exact description, reference being had to the accompanying drawings, forming part of this specification, in which—

Figure 1 is a top plan view showing my improved transfer apparatus in the form shown in Fig. 4 in connection with a set of welding-rolls. Fig. 2 is a detail plan view showing one form of the troughs and transfer mechanism. Fig. 3 is an end elevation of Fig. 2. Figs. 4 and 5 are end elevations showing modifications of my invention.

My invention relates to the transferring of welded tubes or pipes to the rollers leading to the sizing-rolls or the returning of the same for reworking; and it is especially designed for use in connection with a furnace having two or more sets of welding-rolls.

The object of the invention is to provide an improved transfer mechanism by which a welded tube may be transferred to the sizing-rolls without interfering with the rod carrying the welding-ball for the other set of welding-rolls or the operation of the other set of rolls, and, further, to provide means for returning second runs by passing them beneath the transfer mechanism.

In the drawings, 2 2 and 3 3 represent two pairs of welding-rolls located side by side and staggered relatively to each other in front of the furnace-opening. In front of these welding-rolls I provide a transfer apparatus, comprising, as shown in Fig. 3, troughs 4 5 for receiving the welded tube from the welding-rolls. These troughs have arms 4' 5' keyed to rock-shafts 6 6, which are adapted to be rocked by suitable systems of levers 7 7, actuated by hand or any suitable motor, so as to raise the troughs from their normal receiving position (shown in full lines in Fig. 3) to their discharging position. (Shown by dotted lines.) An inclined skid 8 or any other suitable transfer device extends from beneath the trough 4 5 to a roller-table 9 in line with the sizing-rolls 10.

In using the apparatus the tubes are passed

through the rolls 2 2 and 3 3 over welding balls and rods. In Fig. 1 I show such welding-ball 11 and rod 12 in connection with the rolls 2 2, the rod 12 being supported at the front end by a usual swinging catch 13. The rods are drawn from the tubes by suitable means—for example, by frictional rolls 14—and to transfer the tube from the trough the rock-shaft is operated by the levers 7 and 60 carries the trough to the elevated position, (shown in Fig. 3,) whereupon the tube rolls from the trough down upon the skid or table 8 and is delivered thereby to the table of the sizing-rolls. The skid 8, which acts as a 65 transfer device, may be pivoted at 8', and if the tube dropped thereon is found to be defective the skid may be reversed by tilting it into the position shown by dotted lines in Fig. 3 and the pipe delivered to the right to 70 be reworked.

The tubes delivered from the trough 5 pass under the companion trough 4. It will be seen that the transfer mechanism does not extend over the troughs, and both transfer 75 mechanisms can be moved at once, as neither can interfere with the operation of the other. The welding-rolls may therefore be used simultaneously, if desired, and this important advantage results from the fact that the tubes 80 are delivered from one transfer-trough beneath and not above the other trough.

In Fig. 4 I show a modification of my invention in which the troughs 4 5 are stationary, but are slotted or interrupted transversely at intervals in their length, and in the spaces or pockets so formed there are transfer-arms 15 15, which are keyed to the rock-shafts 6 6 and are operated by a lever mechanism 7, as above explained. In this case 90 the tubes are delivered by raising the transfer-arms 15, with the same result as in Figs. 2 and 3, where the troughs themselves are raised.

In Fig. 5 I show another modification which 95 operates in the same way as shown in Figs. 2 and 3, except that the trough 5 moves downwardly in delivering the tubes to the skid, and it thus delivers the tube to the left of the shaft 6 instead of the right, as in Figs. 2 and 3. 100

Other modifications of my invention may be made by the skilled mechanic, the essen-

tial being that the transfer mechanism be constructed to deliver the tubes from one multiple trough under the other trough or troughs for the purpose of preventing interference of one tube with the other.

I claim—

1. Tube-welding apparatus, comprising sets of welding-rolls, receiving-troughs therefor, and transfer mechanism constructed to deliver the tubes from one of the troughs laterally under an adjacent trough; substantially as described.

2. Tube-welding apparatus, comprising sets of welding-rolls, receiving-troughs therefor, and transfer mechanism constructed to deliver the tubes from one of the troughs laterally under an adjacent trough, and a transfer

device leading transversely under the same adjacent trough; substantially as described.

3. Tube-welding apparatus, comprising sets of welding-rolls, receiving-troughs therefor, and transfer mechanism constructed to deliver the tubes from one of the troughs laterally under an adjacent trough, and a transfer device leading transversely under the same adjacent trough, said transfer device being reversible to deliver defective tubes in the opposite direction; substantially as described.

In testimony whereof I have hereunto set my hand.

THOS. J. BRAY, JR.

Witnesses:

THOMAS W. BAKEWELL,
GEO. B. BLEMING.

[Endorsed]: Dfts. Ex. 6.

[Defendant's Exhibit No. 7—Drawings and Specification of Letters Patent No. 685,465, Patented October 29, 1901—P. Boyd.]

No. 685,465.

Patented Oct. 29, 1901.

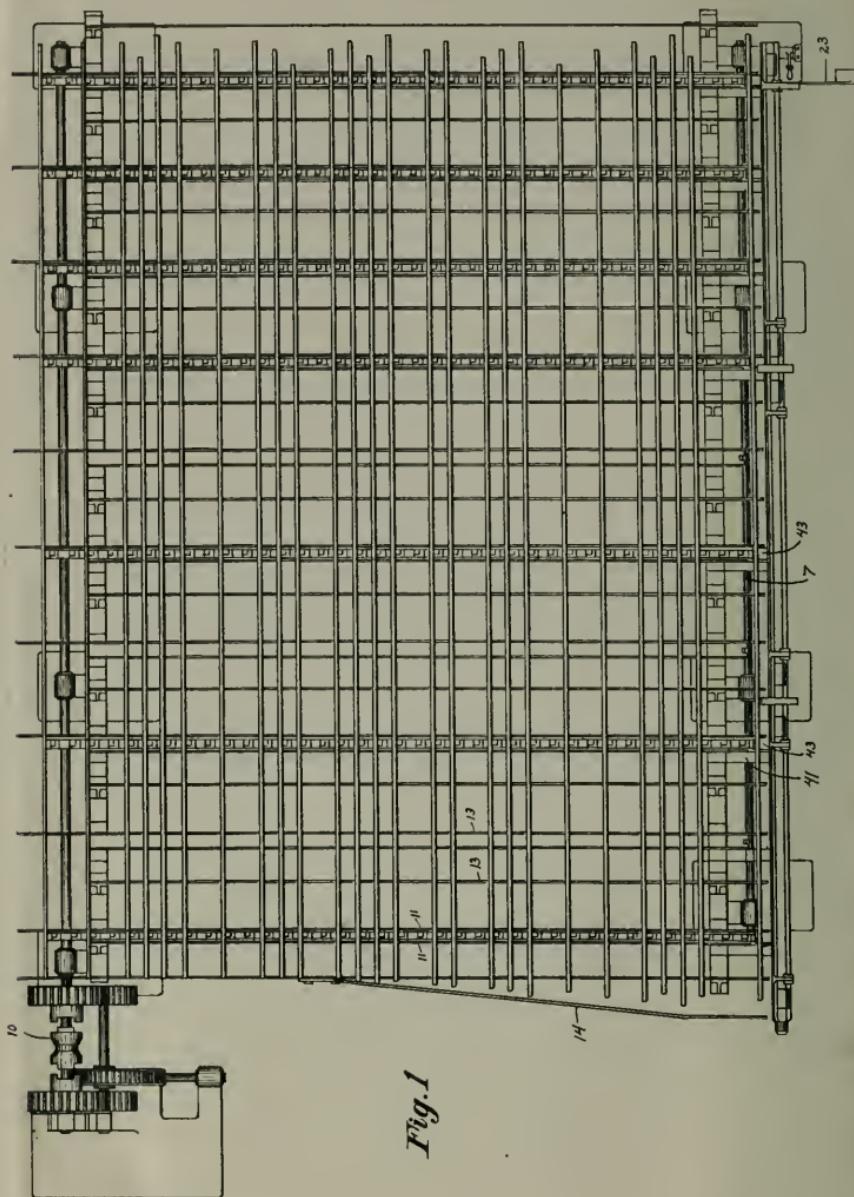
P. BOYD.

STRAIGHTENING TROUGH AND DELIVERY GUIDE TO COOLING TABLES.

(Application filed Dec. 20, 1900.)

(No Model.)

3 Sheets—Sheet 1.

*Witnesses.**Fred D. Sweet*
*Walter Tamariss**Inventor:*
Peter Boyd
By Harry Hotten
Attorneys.

No. 685,465.

Patented Oct. 29, 1901.

P. BOYD.

STRAIGHTENING TROUGH AND DELIVERY GUIDE TO COOLING TABLES.

Application filed Dec. 20, 1900.

(No Model.)

3 Sheets—Sheet 2.

Fig. 7

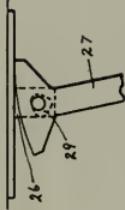


Fig. 6



Fig. 5

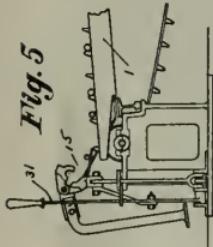


Fig. 2

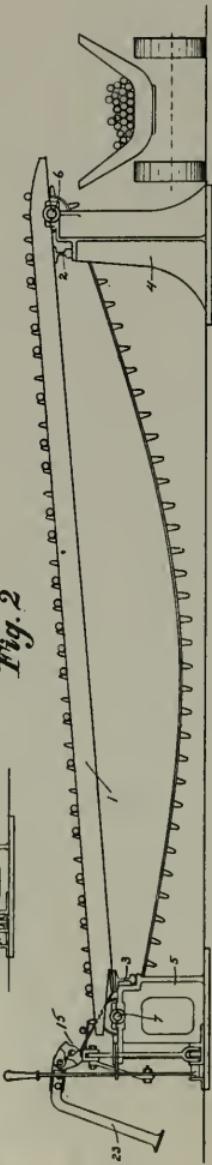


Fig. 4

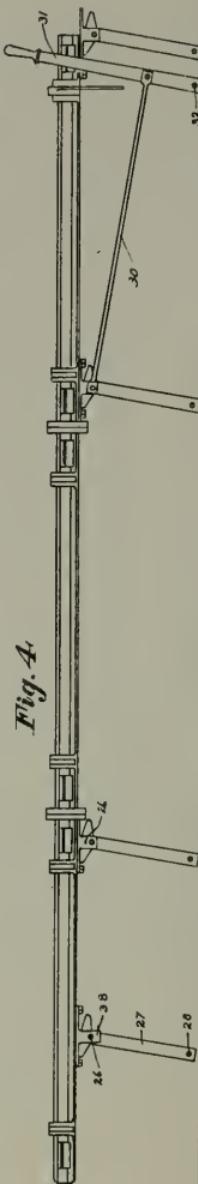
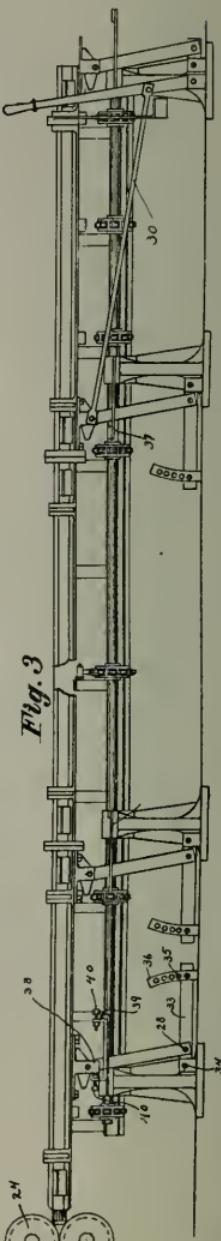


Fig. 3



Witnesses.

Fred D. Sweet
Walter F. Marais

Inventor:

Peter Boyd
By Ray H. Gitter
Attorneys.

No. 685,465.

Patented Oct. 29, 1901.

P. BOYD.

STRAIGHTENING TROUGH AND DELIVERY GUIDE TO COOLING TABLES.

(Application filed Dec. 20, 1900.)

(No Model.)

3 Sheets—Sheet 3.

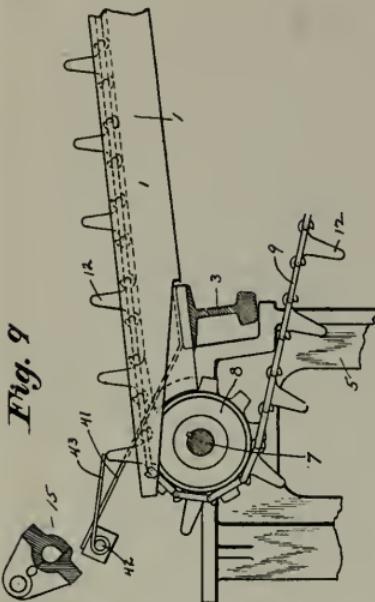


Fig. 9

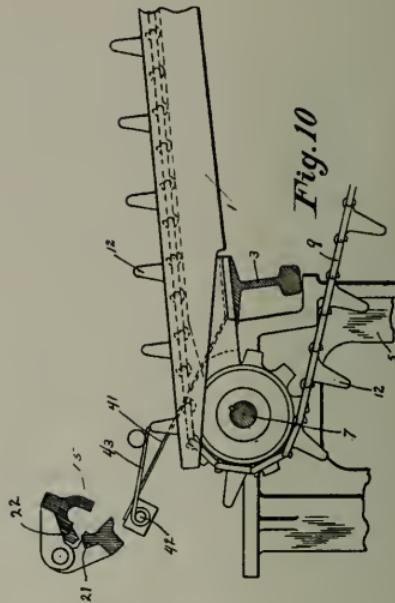


Fig. 10

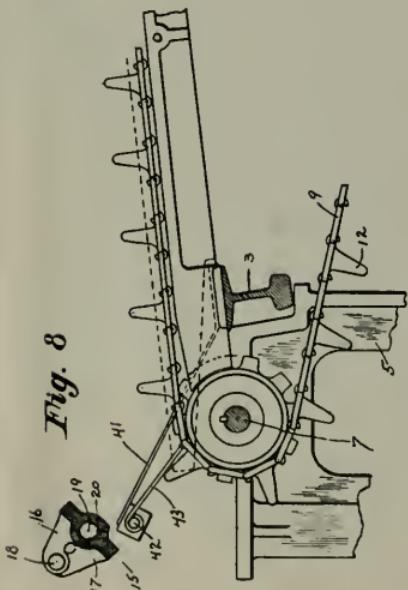


Fig. 8

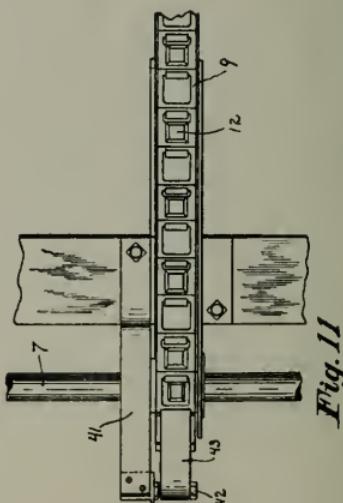


Fig. 11

Witnesses.

Fred D. Sweet
Walter Samanies

Inventor:

Peter Boyd
By Kay & Stern
Attorneys.

UNITED STATES PATENT OFFICE.

PETER BOYD, OF PITTSBURG, PENNSYLVANIA, ASSIGNOR TO THE NATIONAL TUBE COMPANY, OF NEW YORK, N. Y., A CORPORATION OF NEW JERSEY.

Straightening-Trough and Delivery-Guide to Cooling-Tables.

SPECIFICATION forming part of Letters Patent No. 685,465, dated October 29, 1901.

Application filed December 20, 1900. Serial No. 40,470. (No model.)

To all whom it may concern:

Be it known that I, PETER BOYD, a resident of Pittsburg, in the county of Allegheny and State of Pennsylvania, have invented a new and useful Improvement in Straightening-Troughs and Delivery-Guides to Cooling-Tables; and I do hereby declare the following to be a full, clear, and exact description thereof.

My invention relates to a trough for receiving pipes and bars from the sizing-rolls and a guide for delivering the pipes or bars from said trough to the cooling-table, and has for its object devices of the character specified, whereby the pipes or bars will be straightened by the trough as they are received from the sizing-rolls and be automatically delivered to the cooling-table, so that they cannot again become bent, thereby dispensing with the use of cross-rolls or other straightening devices.

In the manufacture of pipes and tubes as heretofore practiced the pipe or tube after being welded was passed through the sizing-rolls and thence to a pair of cross-rolls for straightening the same, after which it was delivered to a cooling-table. The ordinary cooling-table comprises a series of slides arranged in an inclined direction and a series of chains provided with projections, said chains passing over suitably-driven sprocket-wheels at the upper and lower ends of the slides. The pipes rest on the slides, and the projections on the chains carry the pipes or tubes up the inclined slides and deposit them in a car or other suitable device at the upper end. In passing up the inclined slides the tubes or pipes are constantly rotated in order that they may cool uniformly and also to prevent their bending while cooling. With the mechanism heretofore in use it frequently happened that one end of the pipe was delivered to the cooling-table in advance of the other end, and inasmuch as the projections on the various chains of the cooling-table are all in line one end of the pipe was liable to fall in front of a projection on one of the chains, while the other end of the pipe would fall behind the corresponding projection on another of the chains, so that the pipe was bent and carried in this manner up the inclined cooling-table. This necessitated the employment of boys to lift the ends of the

pipes and deposit them in front of the proper projections on the chains; but after a pipe has once been bent by being improperly delivered to the cooling-table it cannot be straightened by this expedient, but it has been found necessary to straighten the pipe by suitable straightening means as soon as it becomes cool enough to handle.

It is the object of my invention to dispense with the cross or other straightening rolls and provide a trough whereby the pipe or tube is received from the sizing-rolls and straightened and also provide means whereby the pipe is delivered from the trough to the cooling-table automatically and in such a manner that one end thereof cannot fall on the chains in advance of the other end, thereby preventing the pipe from becoming bent.

To this end my invention comprises a closed trough for receiving the tube from the sizing-rolls, said trough being of a size internally but slightly larger than the pipe or tube, so that the latter will be straightened as it passes into the trough, said trough being so constructed that it can be readily opened to discharge the pipe therefrom. In connection with this trough I use a fixed guide and a pivoted guide which automatically delivers the pipe from the trough to the cooling-table in such a manner as to prevent one end falling on the chains in advance of the other end.

In the accompanying drawings, Figure 1 is a plan view of the cooling-table and my improved straightening-trough. Fig. 2 is an end view of the same. Fig. 3 is a front view of the cooling-table and trough. Fig. 4 is a detail view showing the trough in its retracted position. Fig. 5 is a detail end view showing the manner of discharging the pipe from the trough. Fig. 6 is a longitudinal section of the front end of the trough. Fig. 7 is a detail of the upper end of the rocker-arm. Fig. 8 is an end view of a portion of the cooling-table and my improved guides. Fig. 9 is a similar view with the chain and pivoted guide in another position. Fig. 10 is a similar view showing a pipe upon the pivoted guide, and Fig. 11 is a plan view of one of the guides and chains.

The cooling-table comprises the slides 1, 1, which are mounted on the rails 2, 3, secured

to the standards 4 5, the standards 4 being higher than the standards 5, so that the slides 1 are in an inclined position. In the standards 4 is mounted the shaft 6, and in the standards 5 is mounted a similar shaft 7. On these shafts are secured sprocket-wheels 8 8, over which run the chains 9, the latter having their upper reaches lying on the upper surface of the slides 11. The shaft 6 is driven by a suitable motor or engine and can have two rates of motion imparted to it by means of the clutch 10. To the sides of the slides 1 are secured guides 11, which project above the upper face of the slides a distance substantially equal to the thickness of the chains 9, and the pipes or bars in passing up the cooling-table roll on the faces of the guides 11. The chains are provided at intervals with projections 12 for engaging the pipes or bars and carry the same up the cooling-table, the projections on the various chains being in line with each other. Between the slides 1 the table is provided with additional guides 13, which are secured to the rails 2 and 3 and which serve to support the pipes between the guides 11. At one end the table is provided with an inclined plate or guide 14, which projects above the guides 11 and aligns the ends of the pipes or bars.

In front of the cooling-table is mounted the straightening-trough 15, which comprises two longitudinal sections 16 and 17, hinged together, as at 18, said sections having formed therein the opening 19, which is cylindrical through about three-quarters of its circumference, the walls of said opening at the meeting portions of the two sections at the discharge side being formed tangential, as at 20, to permit the pipe passing readily out of said trough when it is opened. The two sections of the trough are provided with co-operating lugs 21 22, which serve to accurately center said sections when closed in case the pivot-pins 18 become worn or loose. The upper section has secured thereto the lever 23, by means of which said section can be raised to open the trough, the weight of the section being sufficient to cause the trough to close when pressure on the lever 23 is removed. The opening 19 in the trough is but slightly larger than the pipe or bar to be received therein, so that as the pipe or bar passes into the trough it is straightened. As a consequence a different trough is necessary with each different size of pipes or bars. The forward end of the trough projects into the pass of the sizing-rolls 24, and the opening 19 in this end of the trough is bell-mouthed, as shown at 25, Fig. 6, and is increased so as to be considerably in excess of the diameter of the pipe, so that the latter can pass readily from the sizing-rolls 24 into the trough. The lower section of the trough is provided with lugs 26, which are pivoted to the upper ends of the rocker-arms 27, the latter being pivoted at their lower ends on the pins 28 and have their upper ends in the form of an arc struck about

28 as a center. To permit the trough 15 moving longitudinally without binding on the upper ends of the rocker-arms, the holes 29 in the lugs 26, through which pass the pins which secure the lugs to the rocker-arms, must either be enlarged or formed triangular or heart-shaped, as shown in Fig. 7. To one of the rocker-arms 27 is secured one end of the connecting-rod 30, the opposite end of which is secured to the lever 31, pivoted to the base at 32. By means of this lever the arms 27 can be rocked and the trough moved toward the sizing-rollers 24 to receive the pipe and then away from said rollers to discharge the pipe from the trough. The lower ends of the rocker-arms 27 are pivoted to the levers 33, the latter having one end pivoted at 34 and having their opposite ends held at any desired height by means of a pin passing through said levers and into any one of the series of holes 35 in the stationary segments 36. By this simple means the rocker-arms and trough supported thereby may be adjusted to any desired height to bring the trough into alignment with the pass of the sizing-rolls, which pass may be higher or lower, according to the size of pipes or bars being produced.

The rocker-arms 27 are guided in their to-and-fro motion by slotted plates 37, secured to the tops of the standards 5. Projecting downwardly from one of the lugs 26 on the lower section of the trough is the finger 38, and the plate 37, by which the corresponding rocker-arm is guided, has its ends turned up, as at 39, and provided with the adjusting-screws 40, which lie in the path of the finger 38 and limit the movement of the trough in both directions, as will be readily understood. By adjusting the screws 40 the movement of the trough can be limited as desired.

Secured to the rail 3 are a series of fixed guides 41, which project upwardly and forwardly and have their outer ends in position to receive the pipes from the trough 15 and guide the latter from said trough to the cooling-table. To the outer ends of these guides are pivoted, by means of pins 42, the leaf-guides 43, the free ends of which lie over the chains 9 of the cooling-table, and as the chains move on the slides 1 the free ends of the guides 43 rise and fall alternately from the position shown in Fig. 8 to that shown in Fig. 9. These guides are for the purpose of preventing the ends of the pipe falling in front of different projections on the chains 9.

In the operation of my device the trough 15 is moved toward the sizing-rolls to the position shown in Fig. 3 and the pipe or tube emerging from said rolls enters the opening in the trough and is straightened thereby. The operator then moves the lever 31, withdrawing the trough from the sizing-rolls to the position shown in Fig. 4, and then places his foot on the end of the lever 23, thereby opening the trough and allowing the pipe to pass out of the same and upon the fixed guides

41. Should the chains all be in the position indicated in Fig. 8, the pipe will pass immediately down the guides 41 until it rests on the guides 11, in which position it will remain until the next projections 12 on the chains 9 contact therewith and roll the same slowly up the cooling-table. Should, however, the chains be in a position so that the projections 12 are about to pass the guides 41, then if one end of the pipe should be in advance of the other there would be liability of said end passing in front of the projection 12 on one of the chains, while the other end of the pipe would not reach the chain until the corresponding projection had passed beyond the guide 41, so that that end of the pipe would fall behind said projection, and as a consequence the pipe would become bent. It is just here that the pivoted guides 43 come into play. As the projections 12 on the chain pass the guides 41 they raise the free ends of the pivoted guides 43 to the position indicated in Fig. 9, so that if in this position a pipe is discharged from the trough and if one end thereof is in advance of the other it will pass down the guide 41 until it reaches the pivoted guide 43, and as the latter is in approximately a horizontal position it checks the forward movement of that end of the pipe until the other end has an opportunity to catch up therewith, and then both ends of the pipe will fall either in front of the projections on the chains or, if these are too far advanced when the pivoted guides drop from said projections, the pipe will fall behind the same and be carried up the cooling-table by the next projections on the chains and in a straight position. It will thus be seen that I provide means for receiving the pipes from the sizing-rollers and straightening the same, which dispenses with the use of cross-rolls and also providing means for automatically delivering the pipes to the cooling-table in such a manner that they cannot again become bent.

45 While the invention has been described more particularly with reference to the manufacture of tubes and pipes, it is also applicable to the manufacture of solid bars, and I wish it understood that the scope of the claims is intended to cover the latter. Furthermore, while the invention is designed to dispense with cross-rolls or other special straightening devices, nevertheless cross-rolls are sometimes deemed necessary in the manufacture 50 of pipes or bars, not only for the purpose of straightening the pipes or bars, but also for cleaning and scouring the same. I therefore desire it to be understood that my trough may be used in connection with straightening or cross rolls, if desired. The specific manner of mounting the trough is not essential, as it may be mounted upon rollers instead of the rocker-arms shown, only in that case more power would be required to move it. As a matter of fact, the rocker-arms are segments of large rollers. The sections of 55 the trough are so constructed that the pipe

will be readily discharged therefrom and said trough will close automatically, and a further advantage is that if a defective or laminated pipe or bar should stick in the trough the latter can be readily opened to allow the removal of such laminated piece. 70

What I claim as my invention, and desire to secure by Letters Patent, is—

1. In apparatus for manufacturing pipes and bars, the combination with the sizing-rolls, of a trough having one end projecting into the pass of said rolls and adapted to receive and confine the pipe or bar, and means 80 for ejecting the pipe from said trough.

2. A trough for straightening pipes and bars comprising two longitudinal sections hinged together, and coöperating lugs on said sections adapted to center the same. 85

3. In apparatus for finishing pipes and bars, the combination with the sizing-rolls, of a trough having one end adapted to project into the pass of said rolls and adapted to receive and confine the pipe or bar, and means 90 for moving said trough toward and from said rolls.

4. In apparatus for manufacturing pipes and bars, the combination with the sizing-rolls, of a trough adapted to receive and confine the pipe or bar, rocker-arms on which said trough is mounted, and means for rocking said arms to move the trough toward and from said rolls. 95

5. In apparatus for manufacturing pipes and bars, the combination with the sizing-rolls, of a trough adapted to receive and confine the pipe or bar, means for moving said trough toward and from said rolls, and adjustable stops for limiting the movement of the trough. 100

6. In apparatus for manufacturing pipes and bars, the combination with the sizing-rolls, of a trough adapted to receive and confine the pipe or bar, and means for adjusting said trough vertically. 110

7. In apparatus for manufacturing pipes and bars, the combination with the sizing-rolls, of a trough adapted to receive and confine the pipe or bar, rocker-arms on which said trough is mounted, levers to which the lower ends of the rocker-arms are pivoted, and means for adjustably supporting one end of said levers. 115

8. A trough for straightening pipes and bars comprising two sections hinged together, a lever secured to the upper section for opening the same, rocker-arms pivoted to the lower section for supporting the same, and means for adjustably supporting said rocker-arms. 120

9. In apparatus for manufacturing pipes and bars, the combination with a receiving-trough, cooling-table, and its carrying-chains, of the guides pivoted adjacent the receiving-trough and having their free ends projecting over the carrying-chains of the cooling-table. 130

10. In apparatus for manufacturing pipes and bars, the combination with the receiving-

trough, cooling-table, and its carrying-chains, of the fixed guides extending from the trough to the cooling-table, and the leaf-guides pivoted to the fixed guides and having their free ends projecting over the carrying-chains of the cooling-table and resting thereon.

11. In apparatus for manufacturing pipes and bars, the combination with the sizing-rolls and cooling-table, of a trough for receiving the pipe from the rolls and straightening

the same, and automatic guides for directing the pipe from the trough to the cooling-table without liability of bending the same.

In testimony whereof I, the said PETER BOYD, have hereunto set my hand.

PETER BOYD.

Witnesses:

ROBERT C. TOTTEN,
F. W. WINTER.

[Endorsed]: Dfts. Ex. 7.

[Defendant's Exhibit No. 8—Drawings and Specifications of Letters Patent No. 299,832, Patented June 3, 1884—W. H. Moore.]

W. H. MOORE.

MACHINE FOR MAKING BED SLATS.

No. 299,832.

Patented June 3, 1884.

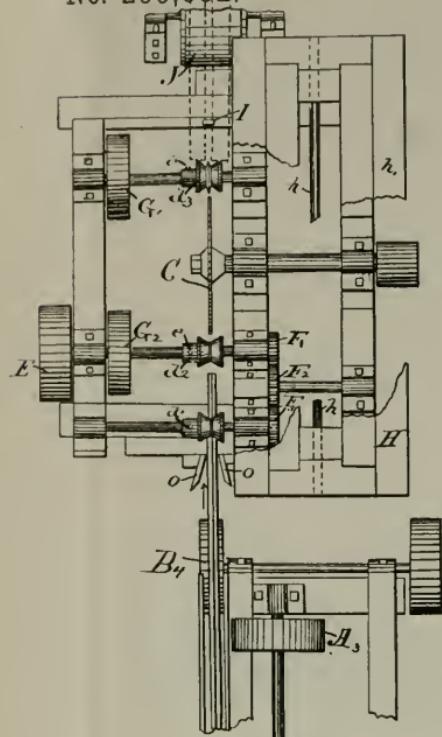
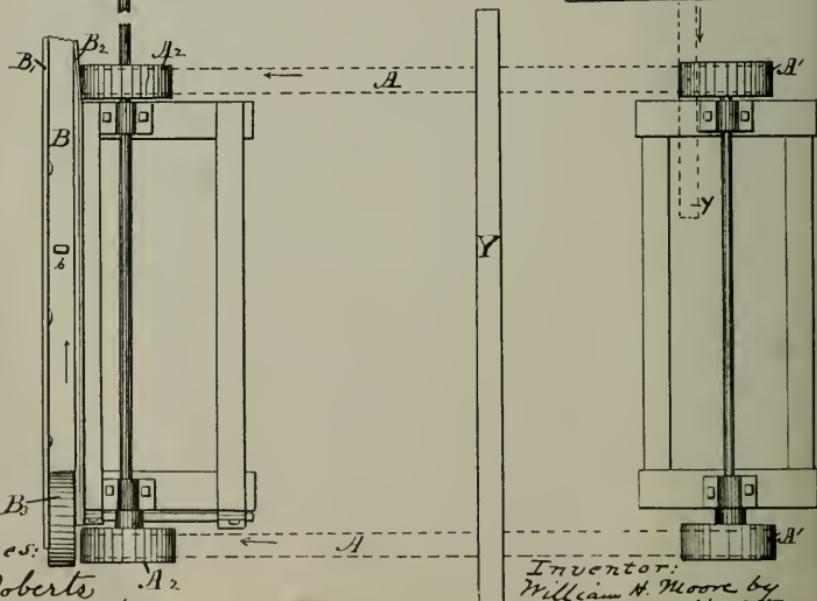


Fig. 1.



Witnesses:

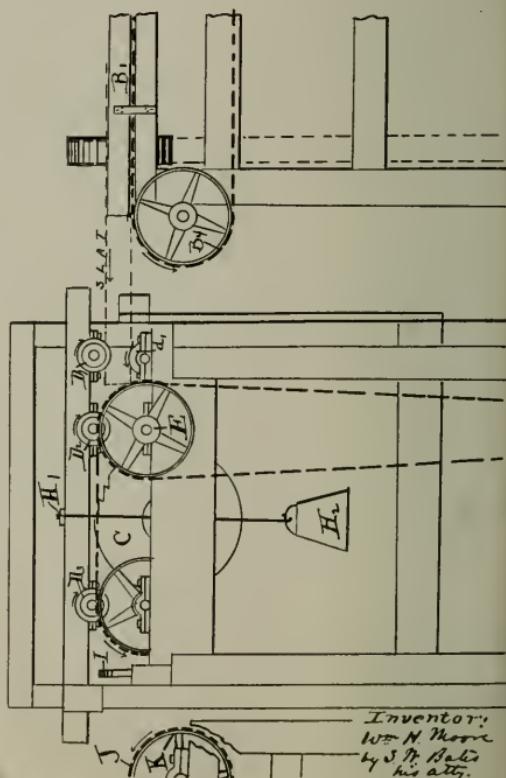
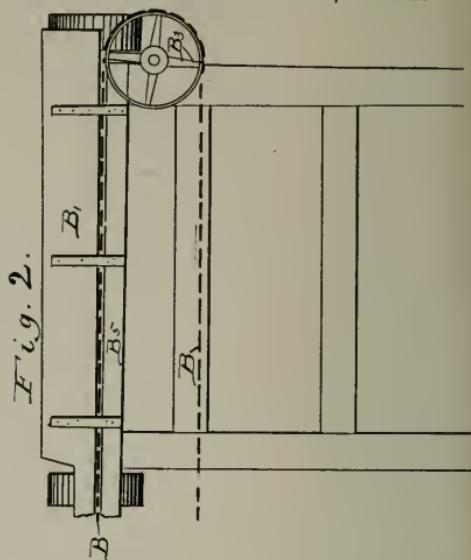
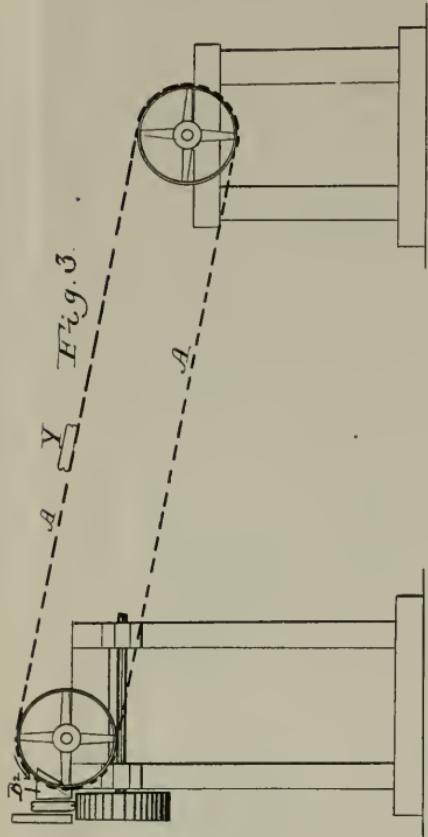
E.W. Roberts
C.E. ShirlawantInventor:
William H. Moore by
S.W. Bates his Atty

W. H. MOORE.

MACHINE FOR MAKING BED SLATS.

No. 299,832.

Patented June 3, 1884.



Witnesses:

E. W. Roberts,
C. E. Sturtevant.Inventor:
W. H. Moore
by J. M. Baker
his atty.

W. H. MOORE.

MACHINE FOR MAKING BED SLATS.

No. 299,832.

Patented June 3, 1884.

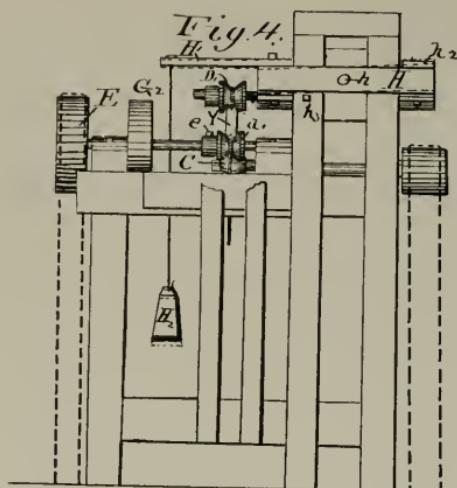
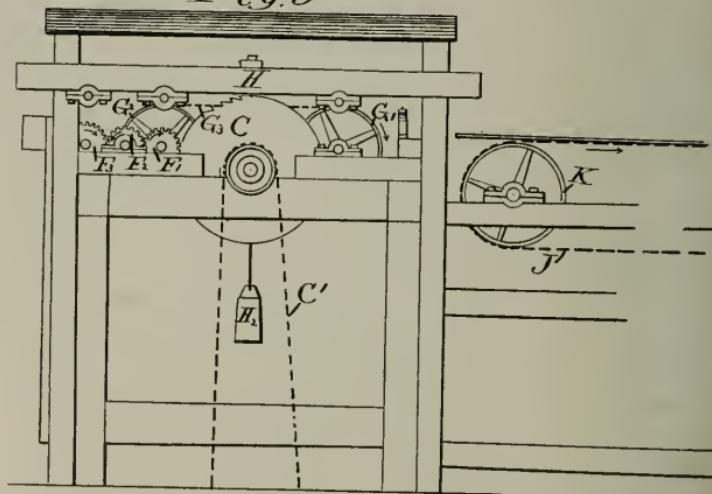


Fig. 5



Witnesses:

E. W. Roberts

O. E. Sturtevant

Inventor:

William H. Moore,
by S. M. Bates
his Atty

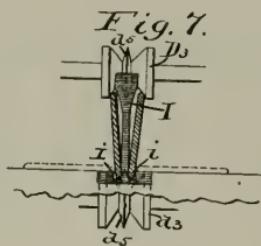
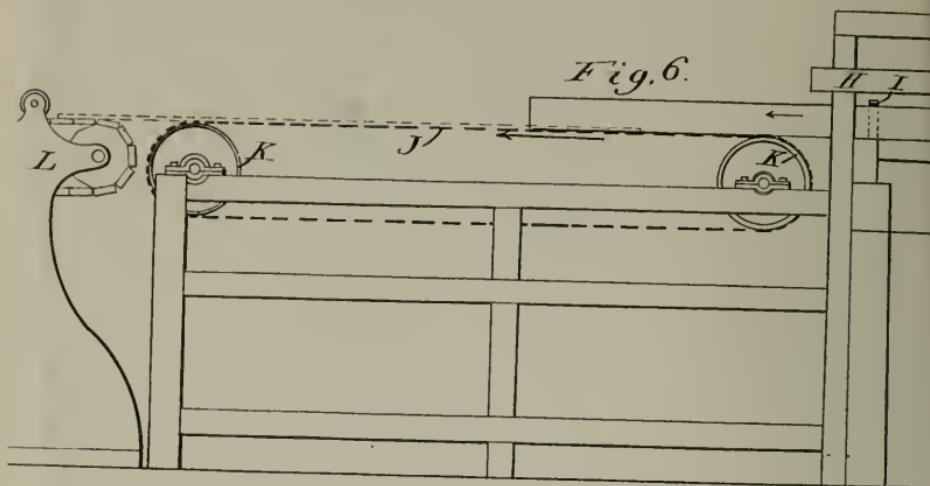
W. H. MOORE.

4 Sheets—Sheet 4.

MACHINE FOR MAKING BED SLATS.

No. 299,832.

Patented June 3, 1884.

*Witnesses:*

E. W. Roberts

C. E. Sturtivant

*Inventor:*William H. Moore
by S. M. Bates
his atty

UNITED STATES PATENT OFFICE.

WILLIAM H. MOORE, OF GARDINER, MAINE.

MACHINE FOR MAKING BED-SLATS.

SPECIFICATION forming part of Letters Patent No. 299,832, dated June 3, 1884.

Application filed February 27, 1884. (No model.)

To all whom it may concern:

Be it known that I, WILLIAM H. MOORE, a citizen of the United States, residing at Gardiner, in the county of Kennebec and State of Maine, have invented certain new and useful Improvements in Machines for Making Bed-Slats, of which the following is a specification, reference being had therein to the accompanying drawings.

10 My invention relates to the manufacture of bed-slats where a bolt is used having double the thickness of the required slat, which bolt, having been planed on both sides and molded on both edges, is afterward split, thus forming

15 two slats.

The object of my invention is to take the bolt as it comes from the planer and automatically split it into two slats with a splitting-saw, planing off the saw-scarf thus formed, and de-

20 livering the slat at the end of the machine planed on both sides and ready for the market. I accomplish this result by the following successive steps, viz: The bolt, as it comes from the planer, falls across two belts, which carry it off at right angles and deposit it on edge in an open trough, the bottom of which is formed by an endless belt. The motion of this belt carries the bolt along to the splitting-machine, through which it is run by means of grooved

25 friction-rolls. The two slats thus formed from the bolt are made to fall, scarf upward, on a broad feed-belt, which feeds them through a cylinder-planer, where the saw-scarf is planed off.

30 In the drawings, Figure 1 is a general plan. Fig. 2 is a side elevation of splitting-machine with its feed-belt. Fig. 3 is a side elevation of carrying-belts which take the bolt from the first planer. Fig. 4 is a front elevation of splitting-machine, showing belt passing through.

40 Fig. 5 is a side elevation of splitting-machine, with portion of endless belt leading to cylinder-planer. Fig. 6 is an elevation of same endless belt as in Fig. 5, with portion of cylinder-planer. Fig. 7 is a detail of spreader on splitting-machine.

The arrows show direction of the motion.

X is a portion of the planer in which the bolt Y is planed.

50 A A are two endless belts extending at right

angles to said planer, and so placed that they will receive the bolt as it falls from the machine. The belts A A pass over the pulleys A' A', which are near the planer, and thence over the pulleys A² A², placed on a line with the splitting-machine. The shaft which supports the pulleys A² A² also contains the driving-pulley A³, to which power is applied.

B is an endless belt running horizontally over the pulleys B³ B⁴ and at right angles to the belts A A. The upper part of the belt B is placed at about the same level as the middle of the pulleys A² A², so that there will be a drop from the end of the belts A, where they pass over these pulleys to the surface of the belt B. Belt B is inclosed by two side pieces, B' and B'', forming a kind of trough, of which the bottom is the moving belt B, which belt has a motion toward the splitting-machine. A stop or dog, b, is attached to the surface of the belt B. That portion of the side piece B' which comes opposite the belts A A is beveled and canted outward in such a manner as to allow the bolt to slide down over it from the top of the pulleys A² A² to the belt B. The corresponding portion of the side piece B'' is made sufficiently high to catch the edges of the bolts as they tip from the top of pulleys A². The belt B runs over the surface of the bed-piece B⁵.

Immediately beyond the end of belt B, and in line with it, is placed the splitting-machine, which I class by itself for convenience of description. This machine consists, principally, of the splitting-saw C and the six grooved feed friction-rolls, d' D' d² D² d³ D³, arranged in pairs, the rolls of each pair being vertically over each other. The lower rolls, d' d² d³, are geared and belted together by the gears F' F² F³, the pulleys G', G², and E, and the belt G³ in such a manner that they all have the same motion which is imparted by the driving-pulley E. The lower rolls are on a level with the top of the endless feed-belt B. The pair of rolls d' D' are each grooved or hollowed out, so that they form between them a recess which is wide in the middle and tapering toward the top and bottom. The rolls d² D² are identical with d' D'. The rolls d³ D³ are of the same shape as d' D', except that they have turned in the cen-

ter of each groove a cutter or separator, d^2 , which partially separates the recess between the rolls into two parts. The feed-rolls are all provided with set-screws c , which clamp them to the shaft and enable them to be adjusted laterally.

Between the rolls $d^2 D^2$ and $d^2 D^3$ is the splitting-saw C , driven by the belt C' . The upper rolls, $D' D^2 D^3$, are hung by means of loose shafts to a rocking frame, H , which is pivoted to the frame of the machine by the rods h . That side of the frame H which contains the feed-rolls is weighted by means of the weight H^2 attached to the lever H^1 . When the feed-rolls are not in operation, the force of weight H^2 is supported by the stop h^3 , which is fixed in the side of the machine. The feed-rolls in this case are just far enough apart, so that the bolt as it passes between them will lift the frame from the stop h^3 . Behind the rolls $d^2 D^3$ and in line with the saw is the guide or spreader I , Fig. 7. This consists of a thin upright piece somewhat higher than the thickness of the slat and widened out at the top. On each side of the base is a groove, i , so placed as to receive the lower edge of the slat as it comes from the saw and the rolls $d^2 D^3$. The width of the upper end of the spreader I is somewhat greater than the distance between the grooves $i i$.

From the rear end of the splitting-machine extends the broad endless belt J , running over the pulleys $K K$, the upper surface of the belt being level with the bed of the splitting-machine. The pulleys $K K$ are driven by belts connected with the other parts of the machinery.

At the end of belt J , and in line with it, is the cylinder-planer L , the bed of which is on a level with the top of belt J .

Having thus described the construction of my machinery, I now proceed to explain its mode of operation. As the bolt Y comes from the planer X , having there been planed on both sides, it falls across the two belts $A A$, by which it is carried across and deposited on edge on the endless belt B , being there held upright by the side pieces, $B' B''$. The motion of the belt B carries the bolt toward the splitting-machine, when its end, passing between the guides $O O$, is seized between the rolls $d' D'$. If, for any reason, the friction of the belt B should fail to feed the bolt into the rolls, the dog b , as it comes around behind the bolt, starts it along and makes the feed sure. As the end of the bolt is drawn between the rolls $d' D'$ by the revolution of the lower roll, the upper roll, carrying with it the frame H , is slightly raised by the bolt which comes under it, so that free passage for the bolt is allowed. During this the weighted frame bears directly upon the feed-rolls and the bolt. From the rolls $d' D'$ the bolt passes through rolls $d^2 D^2$, whence it is fed through the saw and split into two slats. As the two slats thus formed come from the saw, they pass through the rolls $d^2 D^3$, the separator d^2 spreading them apart, thus relieving the saw from binding. Leav-

ing the rolls d^2 the slats pass, one on each side of the spreader I , their lower edges confined in the grooves $i i$, while their upper edges, bearing against the top of spreader I , incline outward. When they are relieved from the grasp of the rolls $d^2 D^3$ they fall apart, saw-scarf upward, on the top of the endless belt J , by which they are fed through the cylinder-planer L , where the saw-scarf is planed off. It is designed to have the speed of the belts $A A$ a trifle faster than that of the planer X , that of the feed-belt B faster than belts $A A$, and so on through the machine, thus preventing clogging.

The arrangement of parts, as here shown, is made to conform to the conditions at my mill; but it is evident that in many cases where the machines could be placed in a line the endless belts $A A$ might be dispensed with by feeding directly from the planer X to feed-belt B .

Hitherto such bolts as I have described have generally been taken from the first planer and fed by hand through a splitting-saw, and have been placed in the market planed only on one side.

In place of the endless belts B and J here shown, I may make use of a series of feed-rolls, all revolving in the same direction, 95 though I consider the method here shown as preferable.

A variety of means may be used for weighting the upper feed-rolls, $D' D^2 D^3$ —such, for instance, as placing them in a weighted frame 100 moving in vertical guides; but the method I show is as convenient as any.

By the use of the feed-rolls here shown I am enabled to split with accuracy bolts which are badly warped, as such bolts often are, the 105 peculiar grooving of the rolls holding them always in an upright position.

The spreading effect of the rolls $d^2 D^3$ prevents the saw from binding, as I have before shown, and enables me to use saws with no 110 set to them, and also saws which have become blistered, and which would otherwise have been useless.

I claim—

1. In a machine for splitting bed-slat bolts, 115 the combination of the feed-belt delivering the bolts from the planer lengthwise to the feed-belt B , having guides on each sides, with the guides O and the rolls $d' D' d^2 D^2 d^3$ and saw C , whereby the bolt is delivered to and 120 passed beyond the saw, and the spreader I to separate the split bolt, all substantially as set forth.

2. In a machine, as described, the combination of the endless feed-belt B , which is provided with side guides, $B' B''$, whereby the bolt is delivered lengthwise from said belt, with weighted friction-rolls $d' D' d^2 D^2 d^3$, whereby said bolts are held in position, and the splitting-saw C , all as set forth.

3. The combination, in a machine, as described, of the feed-belt A , which carries the

bolt sidewise from the planer, with the feed-pelt B, having side pieces, B' B'', and dog b, whereby the bolt is fed lengthwise to the splitting mechanism, all as set forth.

4. In a machine, as described, and in combination with the friction-rolls d' D' d'' D'', and splitting-saw C, the rolls d'' D'', having the separator f', and upright spreader I, having the groove on each side of its face, whereby the two parts of the sawed bolt are separated and set sawed edge up, all as set forth.

5. In a machine, as described, the combination of the rolls d'' D'', having separator d'', with the upright spreader I, having grooves i on each side of the base, substantially as described.

6. In a machine, as described, for making bed-slats, the combination of the rolls d'' D'', having separator d'', and the upright spreader I, having grooves i on each side of the base, with a belt and planer, whereby the split bolt

is separated and each part, sawed side up, delivered to the planer, to be smoothed, substantially as described.

7. In a machine, as described, for making bed-slats, the combination of the following elements, viz., a belt from the planer to deliver the planed bolt sidewise to the longitudinally-carrying belt, rolls to receive said bolt, which rolls are properly weighted to hold the bolt while it passes the splitting-saw, the saw, and devices for turning the parts of the split bolt sidewise, and a belt to deliver the bolt-pieces, sawed edge up, to a planer, as set forth.

In testimony whereof I affix my signature in presence of two witnesses.

WILLIAM H. MOORE.

Witnesses:

JOSIAH F. PURINTON,

SIMON K. LITTLEFIELD.

[Endorsed]: Dfts. Ex. 8.

[Letter, Dated October 16, 1906—G. W. Loggie to
Commissioner of Patents.]

Serial No. 322,112—Paper No. 5.

\$50¢ M. O. RECEIVED.

OCT. 22, 1906. J

CHIEF CLERK, U. S. PATENT OFFICE.

U. S. PATENT OFFICE,

Nov. 3, 1906.

DIVISION XXIX.

Bellingham, Washington, Oct. 16-1906.

Hon. Commissioner of Patents,

Washington, D. C.,

Sir:—

Your office letter of September 22nd, noting the acceptance of my amendment to the drawing in the application of Geo. W. Loggie for a patent for an improvement in Receiving Trips and Conveyors, Serial No. 322,112, is received. Enclosed please find Postoffice Money Order for Fifty Cents to cover stated costs for making said amendments to the drawing.

Yours respectfully,

GEO. W. LOGGIE,

By DAVID E. LAIN,

Attorney. [151]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Praecipe for Record on Appeal.

To the Honorable Clerk of the Above-entitled Court.

You will please prepare and certify as a record on appeal in the above-entitled cause, and forward the same to the United States Circuit Court of Appeals for the Ninth Circuit, the following pleadings, orders, decrees, stipulations and exhibits and parts of exhibits on file in your office.

I.

Bill of Complaint.

II.

Answer.

III.

Replication.

IV.

The Bill of Exceptions and Amendents thereto when the same shall have been certified by the Court, and complainant's exceptions to interlocutory decree and order of Court allowing same.

V.

Opinion of the Court.

VI.

Decree. [152]

VII.

Petitions for Appeal.

VIII.

Assignments of Error.

IX.

Appeal Bonds and Approvals.

X.

Orders Allowing Appeals.

XI.

Citations.

XII.

Orders Extending Time Within Which to File
Bills of Exceptions.

XIII.

Plaintiff's Exhibit "A," the same being the letters
patent involved in the above-entitled cause.

XIV.

The following parts of Plaintiff's Exhibit "H."

(a) Pages one, two, ten, the first four lines of
page eleven and page thirteen thereof.(b) The letter contained in Exhibit "H" from
the United States Patent Office, signed by B. H.
Morris and dated August 14, 1906.(c) Letter from George W. Loggie from his at-
torney David E. Lain to the Honorable Commis-
sioner of Patents, dated August 27, 1906.(d) Letter to George W. Loggie from B. N.
Morris dated September 14, 1906.

(e) Letter to the Honorable Commissioner of Patents from George W. Loggie, dated September 22, 1906. [153]

(f) Defendant's Exhibit No. 6, the same being the letters patent granted to T. J. Bray, Jr., Feb. 17, 1903, No. 721,006.

(g) Defendant's Exhibit No. 8, same being the letters patent granted to W. H. Moore June 3, 1884, No. 299,832.

(h) Defendant's Exhibit No. 7, same being the letters patent granted to P. Boyd October 28, 1901, numbered 685,465.

(i) Letter from George W. Loggie to the Commissioner of Patents dated October 16, 1906.

XV.

Defendant's Exhibit No. 1.

XVI.

Stipulation Settling Bill of Exceptions or Statement of Case.

XVII.

Order Settling Bill of Exceptions or Statement of Case.

XVIII.

Stipulation and Order Extending Time for Transmitting Record.

XIX.

Stipulation and Order Extending Time to Settle Bill of Exceptions or Statement of Case.

DORR & HADLEY,

J. W. KINDALL,

Attorneys for Complainant.

KERR & McCORD,

Attorneys for Defendant.

[Endorsed]: Praeclipe for Record on Appeal.
Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby,
Clerk. By Ed M. Lakin, Deputy. [154]

*In the District Court of the United States for the
Western District of Washington, Northern Division.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Supplemental Praeclipe for Record on Appeal.

To the Honorable Clerk of the Above-entitled Court:

You will please prepare and certify as a part of the record on appeal in the above-entitled cause, and forward the same to the United States Circuit Court of Appeals for the Ninth Circuit, the following exhibits and parts of exhibits on file in your office.

I.

Plaintiff's Exhibit "B," being a letter dated on or about January 23, 1907, from George W. Loggie to defendant.

II.

Pages 11 and 12 of Plaintiff's Exhibit "H."

III.

Defendant's Exhibits 2, 3, 4 and 5, being photographs of defendant's mill taken June 21, 1909.

DORR & HADLEY,
J. W. KINDALL,

Attorneys for Complainant.

Due service of within Supplemental Praeceipe acknowledged this 27th day of March, 1913.

KERR & McCORD,
Attorneys for Defendant.

[Endorsed]: Praeceipe for Record on Appeal.
Filed in the U. S. District Court, Western Dist. of Washington. Frank L. Crosby, Clerk. By E. M. L., Deputy. [155]

United States District Court, Western District of Washington, Northern Division.

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

Citation [on Appeal of George W. Loggie (Copy)].
United States of America to Puget Sound Mills & Timber Company, a Corporation, and Kerr & McCord, Its Attorneys, Greeting:

You are hereby notified that in a certain case in equity in the United States District Court, in and

for the Western District of Washington, Northern Division, wherein George W. Loggie is complainant and the Puget Sound Mills & Timber Company, a corporation, is defendant, an appeal has been allowed the complainant therein to the Circuit Court of Appeals for the Ninth Circuit.

You are hereby cited and admonished to be and appear in said court at San Francisco, thirty days after the date of this Citation, to show cause, if any there be, why the order and decree appealed from should not be corrected and speedy justice done the parties in that behalf.

Witness the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States, this 27th day of February, A. D. 1913.

[Seal]

EDWARD E. CUSHMAN,
Judge.

Service of the foregoing Citation, and receipt of copy thereof is hereby acknowledged this 27th day of February, 1913.

KERR & McCORD,
Attorneys for Defendant. [156]

[Endorsed]: Citation. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.
[157]

*In the District Court of the United States for the
Western District of Washington, Northern Division.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Citation [on Appeal of Puget Sound Mills & Timber
Co. (Copy)].**

The President of the United States to George W.
Loggie and Messrs. Dorr & Hadley and J. W.
Kindall, His Attorneys:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the 9th Circuit, to be held in the city of San Francisco, California, within thirty days from the date of this writ, pursuant to an appeal filed in the office of the Clerk of the United States District Court for the Western District of Washington, Northern Division, sitting at Seattle, wherein you are the complainant and appellee, to show cause, if any there be, why the judgment in said appeal mentioned, should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable EDWARD D. WHITE,
Chief Justice of the Supreme Court of the United
States, this the 27th day of February, 1913.

[Seal] EDWARD E. CUSHMAN,
Judge

Service of the foregoing Citation on Appeal is hereby accepted this 27th day of Feb., 1913.

DORR & HADLEY,
J. W. KINDALL,
Attorneys for Complainant. [158]

[Endorsed]: Citation on Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [159]

*In the District Court of the United States for the
Western District of Washington, Northern Division.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

VS.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation.

Defendant.

Appeal [Copy].

The President of the United States to the Honorable, the Judge of the District Court for the Western District of Washington, Northern Division, Greeting:

Because in the record and proceedings and also in the rendition of the judgment upon a plea which is

in the said Court before you, or some of you, between George W. Loggie, complainant and appellee, and Puget Sound Mills and Timber Company, a corporation, defendant and appellant, manifest error hath happened, to the great prejudice of the said Puget Sound Mills & Timber Company, defendant and appellant, as by its complaint and assignment of errors appears;

We, being willing that error, if any there be, should be duly corrected and full and speedy justice done to the parties aforesaid, in its behalf do command you, if judgment be therein given that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the city of San Francisco, in the State of California, on the — day of March, 1913, and within thirty days from the date hereof, in the said Circuit [160] Court of Appeals to be then and there held; that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States, this the 27th day of February, 1913.

[Seal] FRANK L. CROSBY,
Clerk of the United States District Court for the
Western District of Washington, Northern Di-
vision.

United States of America,
Western District of Washington,—ss.

We hereby acknowledge receipt of a true and correct copy of the foregoing Appeal and acknowledge service of said appeal by the receipt of a copy thereof.

DORR & HADLEY and
J. W. KINDALL,
Attorneys for Complainant.

[Endorsed]: Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913.
Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.
[161]

[Certificate of Clerk U. S. District Court to
Transcript of Record, etc.]

*In the District Court of the United States for the
Western District of Washington, Northern Division.*

No. 1640.

GEORGE W. LOGGIE,
Complainant and Appellant,
vs.
PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,
Defendant and Appellant.

United States of America,
Western District of Washington,—ss.

I, Frank L. Crosby, Clerk of the United States
District Court for the Western District of Wash-

ington, do hereby certify the foregoing 161 typewritten pages, numbered from 1 to 161, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, exhibits and other proceedings in the above and foregoing entitled cause as are necessary to the hearing of said cause on appeal therein in the United States Circuit Court of Appeals for the Ninth Circuit, and as is stipulated for by counsel of record herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal herein from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the parties hereto for the preparation and certification of the typewritten transcript of record [162] issued to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fee (Sec. 828 R. S. U. S., as

Amended by Sec. 6, Act of March

2, 1905) for making transcript of

the record for printing purposes..\$74.00

Certificate to certified copy of type-

written transcript of record..... .30

Seal to said certificate..... .40

\$74.70

I hereby certify that the above cost for preparing and certifying record amounting to \$74.70 has been paid to me by Messrs. Dorr & Hadley and J. W. Kindall, attorneys for complainant and appellant, and Messrs. Kerr & McCord, attorneys for defendant and appellant.

I further certify that I hereto attach and herewith transmit the original Appeal and original Citations issued in this cause.

IN WITNESS WHEREOF I have hereto set my hand and affixed the seal of said District Court at Seattle, in said District, this 22d day of April, 1913.

[Seal]

FRANK L. CROSBY,
Clerk. [163]

United States District Court, Western District of Washington, Northern Division.

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Citation [on Appeal of George W. Loggie
(Original)].**

United States of America to Puget Sound Mills &
Timber Company, a Corporation, and Kerr &
McCord, Its Attorneys, Greeting:

YOU ARE HEREBY NOTIFIED that in a cer-
tain case in equity in the United States District

Court, in and for the Western District of Washington, Northern Division, wherein George W. Loggie is complainant, and the Puget Sound Mills & Timber Company, a corporation, is defendant, an appeal has been allowed the complainant therein to the Circuit Court of Appeals, for the Ninth Circuit.

You are hereby cited and admonished to be and appear in said court at San Francisco, thirty days after the date of this citation, to show cause, if any there be, why the order and decree appealed from should not be corrected and speedy justice done the parties in that behalf.

WITNESS the Honorable EDWARD D. WHITE,
Chief Justice of the Supreme Court of the United
States, this 27th day of February, A. D. 1913.

[Seal] EDWARD E. CUSHMAN,
Judge.

Service of the foregoing citation, and receipt of copy thereof, is hereby acknowledged this 27th day of February, 1913.

KERR & McCORD,
Attorneys for Defendant. [164]

[Endorsed]: Original. No. 1640. In the District Court of the United States for the Western District of Washington, Northern Division. George W. Loggie, Complainant, vs. Puget Sound Mills & Timber Company, a Corporation, Defendant. Citation. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [165]

*In the United States District Court, Western District
of Washington, Northern Division.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Citation on Appeal [of Puget Sound Mills & Timber
Co. (Original)].**

The President of the United States to George W. Loggie and Messrs. Dorr & Hadley and J. W. Kindall, His Attorneys:

YOU ARE HEREBY CITED and admonished to be and appear at the United States Circuit Court of Appeals for the 9th Circuit, to be held in the city of San Francisco, California, within thirty days from the date of this writ, pursuant to an appeal filed in the office of the Clerk of the United States District Court for the Western District of Washington, Northern Division, sitting at Seattle, wherein you are the complainant and appellee, to show cause, if any there be, why the judgment in said appeal mentioned, should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD D. WHITE,

Chief Justice of the Supreme Court of the United States, this the 27th day of February, 1913.

[Seal]

EDWARD E. CUSHMAN,

Judge.

Service of the foregoing Citation on Appeal is hereby accepted this 27th day of Feb., 1913.

DORR & HADLEY,
J. W. KINDALL,

Attorneys for Complainant. [166]

[Endorsed]: No. 1640. In the District Court of the United States for the Western District of Washington, Northern Division. George W. Loggie, Complainant, vs. Puget Sound Mills & Timber Company, a Corporation, Defendant. Citation on Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [167]

*In the United States District Court, Western District
of Washington, Northern Division.*

No. 1640.

(Circuit Court.)

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant,

Appeal [Original].

The President of the United States to the Honorable, the Judge of the District Court for the Western District of Washington, Northern Division, Greeting:

Because in the record and proceedings and also in the rendition of the judgment upon a plea which is in the said court before you, or some of you, between George W. Loggie, complainant and appellee, and Puget Sound Mills & Timber Company, a corporation, defendant and appellant, manifest error hath happened, to the great prejudice of the said Puget Sound Mills & Timber Company, defendant and appellant, as by its complaint and assignment of errors appears:

We, being willing that error, if any there be, should be duly corrected and full and speedy justice done to the parties aforesaid, in its behalf do command you, if judgment be therein given that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco in the State of California, on the — day of March, 1913, and within thirty days from the date hereof, in the said Circuit [168] Court of Appeals to be then and there held; that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right

200 *Puget Sound Mills & Timber Company*
and according to the laws and customs of the United States should be done.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States, this the 27th day of February, 1913.

[Seal] FRANK L. CROSBY,
Clerk of the United States District Court for the
Western District of Washington, Northern Di-
vision.

United States of America,
Western District of Washington,—ss.

We hereby acknowledge receipt of a true and correct copy of the foregoing Appeal and acknowledge service of said Appeal by the receipt of a copy thereof.

DORR & HADLEY and
J. W. KINDALL,

Attorneys for Complainant. [169]

[Endorsed]: No. 1640. In the District Court of the United States for the Western District of Washington, Northern Division. George W. Loggie, Complainant, vs. Puget Sound Mills & Timber Company, a Corporation, Defendant. Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Feb. 27, 1913. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [170]

[Endorsed]: No. 2270. United States Circuit Court of Appeals for the Ninth Circuit. Puget Sound Mills & Timber Company, a Corporation, Appellant, vs. George W. Loggie, Appellee, and George

W. Loggie, Appellant, vs. Puget Sound Mills & Timber Company, a Corporation, Appellee. Transcript of Record. Appeals from the United States District Court for the Western District of Washington, Northern Division.

Filed April 24, 1913.

FRANK D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,

Deputy Clerk.

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 1640.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

**Order Extending Time [to April 28, 1913] for Filing
Record on Appeal.**

This cause came on for hearing before the Court on the written stipulation of the respective parties hereto, stipulating and agreeing that the time for filing the record on appeal in this cause with the clerk of the Circuit Court of Appeals, at San Francisco, California, may be enlarged and extended until and including the 28th day of April, 1913; and the Court

having heard the same, and being of the opinion that good cause exists for so extending the time for filing the record herein,

IT IS THEREFORE ordered that the time within which the record on appeal in this cause may be prepared and filed, and the cause docketed with the clerk of the Circuit Court of Appeals at San Francisco, California, shall be and is hereby enlarged and extended until and including the 28th day of April, A. D. 1913.

DONE in open court this 25th day of March, A. D. 1913.

EDWARD E. CUSHMAN,
Judge.

OK.

KERR & McCORD.

[Endorsed]: Original. No. 1640. In the District Court of the United States for the Western District of Washington, Northern Division. George W. Loggie, Complainant, vs. Puget Sound Mills & Timber Company, a Corporation, Defendant. Order Extending Time for Filing Record on Appeal. Filed in the U. S. District Court, Western Dist. of Washington. Mar. 25, 1913. Frank L. Crosby, Clerk. By E. M. L., Deputy.

Eq. GOB-1-10.

No. 2270. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to and Including Apr. 28, 1913, to File Record Thereof and to Docket Case. Filed Apr. 24, 1913. F. D. Monckton, Clerk.

Defendant's Exhibit No. 1.

In the Circuit Court of the United States for the Western District of Washington, Northern Division.

No. ——.

GEORGE W. LOGGIE,

Complainant,

vs.

PUGET SOUND MILLS & TIMBER COMPANY,
a Corporation,

Defendant.

INTERROGATORY NO. I.

State your name, age, residence and occupation.

INTERROGATORY NO. II.

What was your occupation, and where were you working in the late '70's and early '80's?

INTERROGATORY NO. III.

If in answer to the preceding question you state that you were working in a lumber mill, state if you know who owned that mill.

INTERROGATORY NO. IV.

Were you acquainted with a Mr. Brown as a member of the firm owning the mill or connected in any way therewith? If so, what if you know was his connection.

INTERROGATORY NO. V.

What sort of lumber was then manufactured at that mill?

INTERROGATORY NO. VI.

What position did you fill in the mill, if working there, and to what extent were you acquainted or familiar with the machinery, conveyors and carriers therein?

INTERROGATORY NO. VII.

What means were used to convey the lumber through the different processes and on to the loading platform, or into the car? Describe fully.

INTERROGATORY NO. VIII.

Were you acquainted with one James C. Kelley, a millwright, during the time you were working in the mill mentioned in your foregoing answer? If so, state where in the mill he worked if you know.

INTERROGATORY NO. IX.

What device, if you know, was used for transferring railroad ties, or other lumber, from behind a planer to the loading platform or car? Describe its construction and operation as fully as possible.

INTERROGATORY NO. X.

State, if you know, who installed or suggested the device last described.

INTERROGATORY NO. XI.

Examine the blue-print marked "Copy of Defendant's Exhibit One," and state whether any device such as is therein set out, or similar thereto, was used or installed to your knowledge in the mill mentioned in your previous answers. If you answer yea, describe the same fully and in what respect, if any, the device as used differed from the one set out in the blue-print.

INTERROGATORY NO. XII.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

EXAMINATION OF WITNESS MARCENA D. SWAN, BEGINNING ON MARCH 7th, 1910, AT MOUNT PLEASANT, MICHIGAN, BEFORE HERBERT A. SANFORD, SPECIAL EXAMINER BY AGREEMENT OF COUNSEL, ON BEHALF OF PLAINTIFF, PURSUANT TO THE ANNEXED STIPULATION.

MARCENA D. SWAN, witness produced in behalf of complainant, being first duly sworn, deposes and says in answer to the annexed interrogatories of like number as follows:

ANSWER TO INTERROGATORY NO. I.

Name—Marsena D. Swan.

Age—fifty-one years.

Occupation—farmer at present.

Residence—Broomfield Township, Isabella County, Michigan.

ANSWER TO INTERROGATORY NO. II.

Working in saw-mill. Was setter, head-sawyer and foreman at different times in saw-mill at Mt. Pleasant, Michigan.

ANSWER TO INTERROGATORY NO. III.

In the seventies Owens & Clinton owned the mill, they sold to L. A. Fancher, and in 1880 or 1881 Albert B. Upton bought it. Thomas Pickard bought one-half interest of Upton and soon thereafter John C. Leaton bought a one-third interest and very soon Pickard sold his interest to Leaton & Upton. They continued to own it until about 1890. I worked in and about said mill all the time that Leaton & Upton owned it and worked there all the time that James G. Kelley worked there.

ANSWER TO INTERROGATORY NO. IV.

I was not acquainted with anyone by the name of Brown who was a member of the firm owning the mill or connected in any way with the same.

ANSWER TO INTERROGATORY NO. V.

The mill cut pine, hemlock and various kinds of hardwood. Cut into inch lumber and dimension stuff. About a certain time in the eighties the mill cut rail-road ties for The Ann Arbor Railroad and some oak bridge ties for The Pere Marquette Railroad.

ANSWER TO INTERROGATORY NO. VI.

At that time in the eighties I was head-setter and I was familiar with the machinery, conveyors and carriers therein and helped to keep them in repair.

ANSWER TO INTERROGATORY NO. VII.

The means used to convey the lumber away from the mill after being sawed was a horse and car. The lumber, slabs and timber was conveyed from the saw on live rollers. The lumber was passed through an

edger and then a set of trimmers and then onto live rollers and conveyed to the horse car. They experimented on cutting railroad ties for The Ann Arbor R. R. Co. and at that time they put up a set of rollers to convey the ties out of the mill to a platform that was erected beside the tramway at the height of a flat car, there to be loaded onto the car by hand. That set of rolls was operated by a belt and pulley; and the same was started and stopped by a tightener operated by a man.

ANSWER TO INTERROGATORY NO. VIII.

I was well acquainted with one James G. Kelley, a mill-wright, during the time I was working in said mill. He was head sawyer, filer, mill-wright and engineer at different times. I worked with him at millwright work. He was a good mill-wright and a good all round mill man.

ANSWER TO INTERROGATORY NO. IX.

The devise used to transfer the ties was a set of rollers put in a frame that extended out to the loading platform, from the end of the live rollers where the slab saw was located. The rollers were driven by the use of a belt and pulley which was stopped and started by raising and lowering a tightener. As we did not have a carriage that we could cut less than twelve feet on we had to cut all the tie timber sixteen feet long and then as it came from the saw on the live rollers to the slab sawyer, he had a devise to stop the tie timber at a point eight feet from the end and then he with slab saw cut the tie eight feet, and then as it passed on, the slab sawyer, by means of lowering

the tightener on to a belt it started the rolls and conveyed the ties to the loading platform.

ANSWER TO INTERROGATORY NO. X.

The devise I have described as being used to convey the ties to the loading platform was designed by James G. Kelley and built by Kelley and myself.

ANSWER TO INTERROGATORY NO. XI.

I have examined the blue-print marked "Copy of Defendant's Exhibit One" and attached hereto, and have to say that there was no such devise nor anything similar to it, to my knowledge, in the said mill at any time.

ANSWER TO INTERROGATORY NO. XII.

I don't know of anything further that I can state that is material to the case or that would explain matters more fully than what I have heretofore stated.

MARSENA D. SWAN.

Subscribed and sworn to before me this 7th day of March, 1910.

[Seal]

HERBERT A. SANFORD,
Notary Public.

My commission expires May 6th, 1911.

State of Michigan,
County of Isabella,—ss.

I, HERBERT A. SANFORD, a notary public in and for said State and County, residing at Mount Pleasant, Michigan, hereby certify that the above witness, Marceena D. Swan, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth. That his deposition was reduced to writing by me in the presence of said witness and

when completed read over to said witness and subscribed by him in my presence and in the presence of such of the parties and counsel as attended. That said deposition was taken pursuant to the annexed Stipulation at the office of Herbert A. Sanford. That the complainant was represented at the taking of said deposition by his counsel I. A. Fanehu, as set forth in the several exhibits recited or offered in evidence, and marked as specially noted in the foregoing deposition. That I am not counsel or relative of either party, or otherwise interested in the event of this suit.

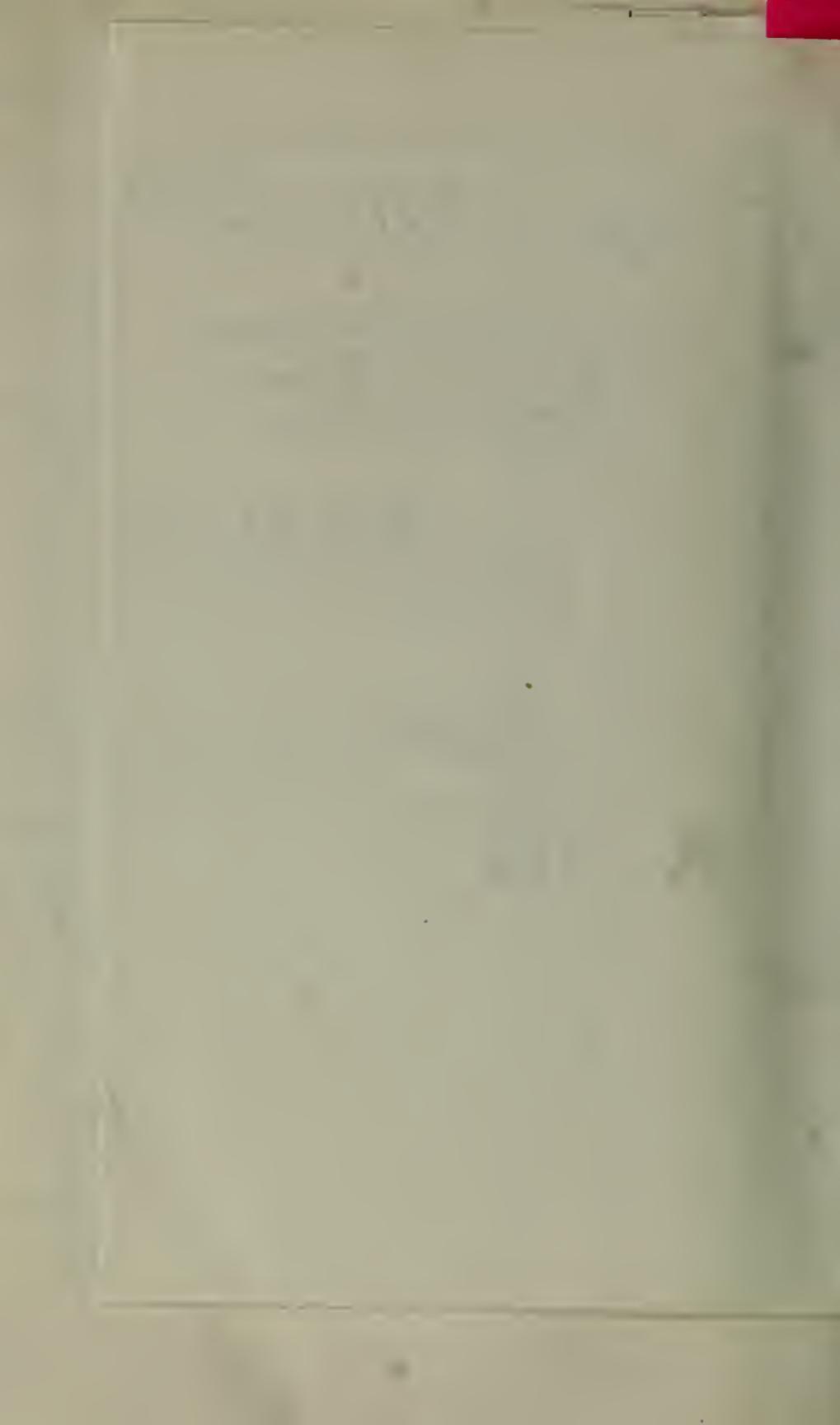
In testimony whereof I have hereunto set my hand and official seal this 7th day of March, 1910.

[Seal]

HERBERT A. SANFORD,
Notary Public.

My commission expires May 6th, 1911.

to double
the population and
the state of Michigan
among its people



vs. George W. Loggie.

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Defendant's Exhibit No. 2.



[Endorsed]: Defendant's Identified Exhibit No. 2.
Admitted. J. W. K. Published and Filed U. S.
Circuit Court, Western District of Washington.
Apr. 1, 1911. Sam'l D. Bridges, Clerk. W. D. Cov-
ington, Deputy.

No. 2270. U. S. Circuit Court of Appeals for the
Ninth Circuit. Defendant's Exhibit 2. Received
Apr. 25, 1913. F. D. Monckton, Clerk.

vs. George W. Loggie.

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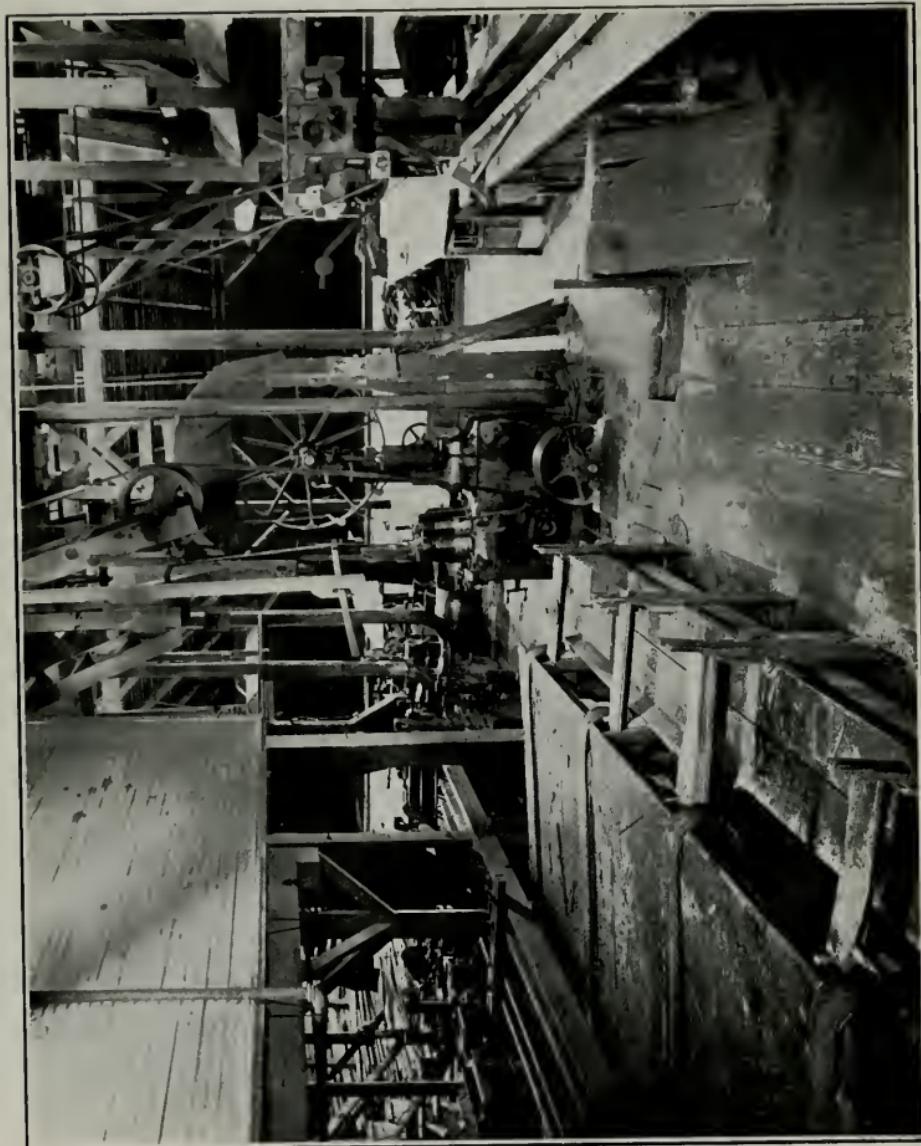
Defendant's Exhibit No. 3.



[Endorsed]: Defendant's Identified Exhibit No. 3.
Admitted. J. W. K. Published and Filed U. S.
Circuit Court, Western District of Washington.
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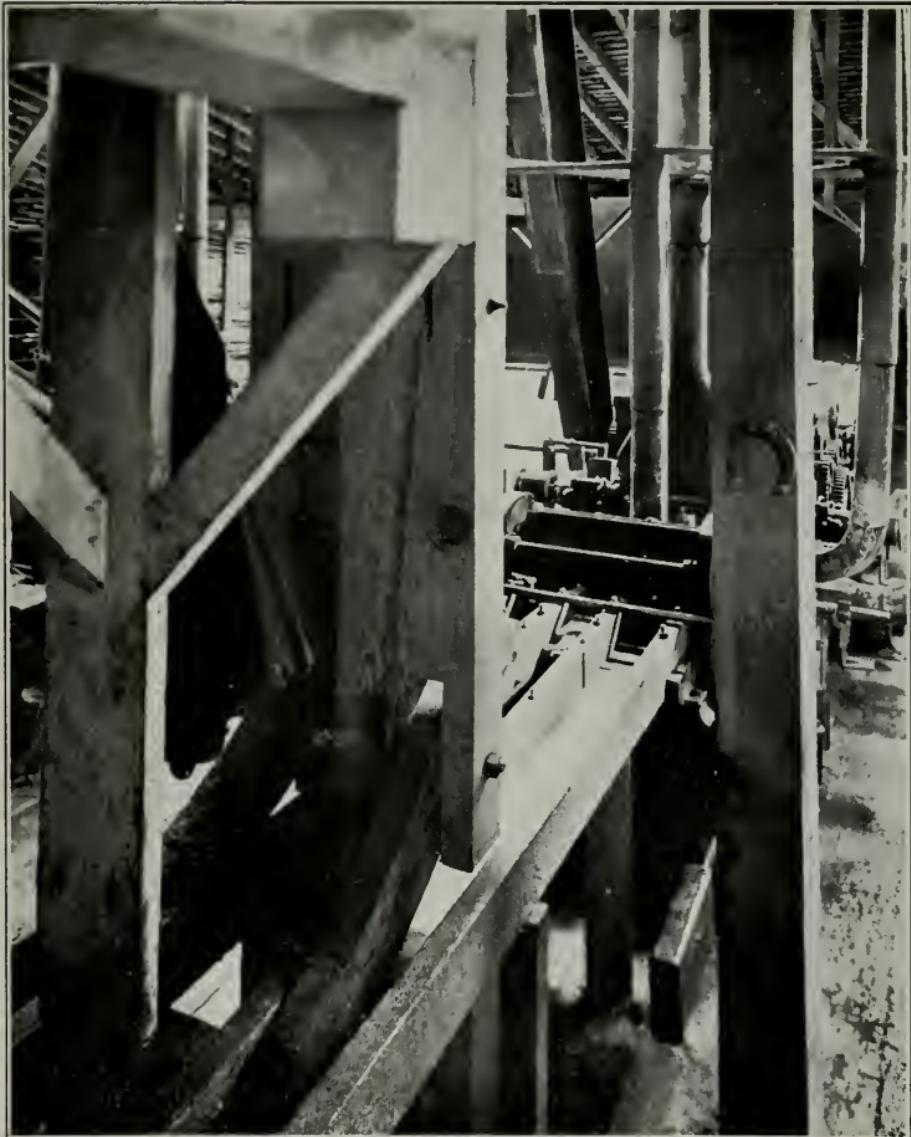
Defendant's Exhibit No. 4.



[Endorsed]: Defendant's Identified Exhibit No. 4.
Admitted. J. W. K. Published and Filed U. S.
Circuit Court, Western District of Washington,
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Defendant's Exhibit No. 5.



[Endorsed]: Defendant's Identified Exhibit No. 5.
Admitted. J. W. K. Published and Filed U. S.
Circuit Court, Western District of Washington.
Apr. 1, 1911. Sam'l D. Bridges, Clerk. W. D. Cov-
ington, Deputy.

No. 2270. U. S. Circuit Court of Appeals for the
Ninth Circuit. Defendant's Exhibit 5. Received
Apr. 25, 1913. F. D. Monckton, Clerk.